
WHEAT INDUSTRY STABILIZATION ACT 1974

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**WHEAT INDUSTRY STABILIZATION**

No. 56 of 1974

AN ACT to make provision with respect to the marketing of wheat and the stabilization of the wheat industry, and to repeal the Wheat Industry Stabilization Act 1968.

[21 November 1974]

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:—

PART I**PRELIMINARY**

1 This Act may be cited as the *Wheat Industry Stabilization Act* Short title. 1974.

Commencement. **2** This Act shall be deemed to have commenced on 1st October 1974.

Repeal and saving.

3—(1) The *Wheat Industry Stabilization Act* 1968, the *Wheat Industry Stabilization Act* 1969, and the *Wheat Industry Stabilization Act* 1973 are repealed.

(2) Notwithstanding the repeals effected by subsection (1), but subject to subsection (3), any provisions of an Act that would, but for that repeal, have continued to apply to, or in relation to, wheat harvested before 1st October 1974 continue so to apply, but this subsection does not prejudice the application to, or in relation to, any such wheat of a provision of this Act that is expressed to apply to, or in relation to, wheat of any season.

(3) A reference in any of the provisions referred to in subsection (2) to the Australian Wheat Board continued in existence by an Act 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 the Board as continued in existence by the Commonwealth Act and conducting its proceedings in accordance with the Commonwealth Act.

Definitions.

4 In this Act, unless the contrary intention appears—

“appropriate Minister”, in relation to a State, means a Minister of State of the State administering the department of the State dealing with agricultural matters, and includes a Minister of State of that State acting on behalf of that Minister;

“Board” means the Australian Wheat Board continued in existence by the Commonwealth Act and conducting its proceedings and affairs in accordance with that Act;

“Commonwealth Act” means the *Wheat Industry Stabilization Act* 1974 of the Commonwealth, and includes that Act as amended at any time;

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

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

“quota season” means a season declared by, or by proclamation under, the Commonwealth Act to be a quota season;

“ season ”, in relation to wheat, means the period of 12 months commencing on 1st October during which the wheat was harvested;

“ wheat ” means wheat of a season referred to in section 5;

“ wheat products ” means a substance (other than bran or pollard) produced by the gristing, crushing, grinding, milling, or other processing of wheat, and includes any of the following products made from wheat:—

- (a) Flour, semolina, sharps, wheatmeal, starch, gluten, rice substitutes, and breakfast foods; and
- (b) Any other commodity produced mainly from other wheat products or from wheat.

5 Except as otherwise provided by this Act, this Act applies in relation to the season commencing on 1st October 1974 and each of the next 6 succeeding seasons. Seasons to which Act applies.

6—(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 to which it purports to apply, being wheat in relation to which it can validly apply. Act subject to Constitution.

(2) Nothing in this section shall be construed as prejudicing or affecting the operation of section 3 of the *Acts Interpretation Act* 1931.

PART II

MARKETING OF WHEAT

7—(1) The Board may—

Powers of Board.

- (a) purchase wheat and wheat products;
- (b) accept the delivery of wheat to it;
- (c) sell or dispose of, or make arrangements for the sale or disposal of, wheat and wheat products;
- (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, or arising out of, the handling, storage, protection, treatment, transfer, shipment, or sale of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board; and

(f) do all things that the Board is required or permitted by this Act to do or that are incidental to the exercise of the foregoing powers or are necessary or convenient to be done by the Board for giving effect to this Act.

(2) For the purposes of this Act the Board is not bound to preserve the identity of wheat of a season and may keep its accounts and records in respect of sales of wheat and wheat products in such manner as will, in its judgment, attribute sales to wheat of different seasons in an equitable manner, and sales so attributed to wheat of a season shall be deemed to relate to wheat of that season.

Directions by
Minister.

8 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.

Licensed
receivers.

9—(1) Subject to this section, the Board may grant a licence in writing, subject to such conditions as are specified in the licence, to a person, firm, company or authority of the State to receive wheat on behalf of the Board, and may cancel or suspend any such licence.

(2) The Tasmanian Grain Elevators Board is entitled to a licence under this section.

(3) 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.

Delivery of
wheat.

10—(1) Subject to this Act, a person who is in possession of wheat may deliver that wheat to the Board.

(2) Subject to this section, the Board may—

(a) by notice in writing served personally on the person to whom it is addressed or served on that person by post at his usual or last-known place of abode or business; or

(b) by notice published in the *Gazette* and addressed to persons generally or to persons included in a class of persons,

require the person, or each person, as the case may be, to whom the notice is addressed—

(c) to deliver to the Board, in accordance with any directions in the notice, wheat that is in the possession of that person; or

(d) to deliver to the Board, in accordance with any directions in the notice, wheat that, during such period as is specified in the notice, comes into the possession of that person.

(3) Upon delivery of wheat to the Board under this section, the wheat (including any corn sacks in which the wheat is contained) becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests, and trusts.

(4) A notice under this section shall not require the delivery to the Board of—

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

(5) A person shall not—

- (a) without reasonable excuse, refuse or fail to deliver any wheat to the Board as required by a notice under subsection (2);
or
- (b) deliver to the Board wheat that has previously been sold by the Board.

Penalty: An amount calculated in respect of the quantity of the wheat in respect of which the offence is committed at the rate of \$200 per tonne, or imprisonment for 6 months, or both.

(6) For the purposes of this section and of notices under this section, where a person has possession of wheat immediately upon its harvesting, that wheat shall be deemed to have come into the possession of that person at the time of its harvesting.

11—(1) Delivery of wheat to the Board may be made by delivering the wheat to a licensed receiver and not otherwise, and the delivery is not effective unless and until the delivery is accepted by the licensed receiver. Delivery to licensed receiver.

(2) A licensed receiver shall, in relation to the acceptance, or refusal of acceptance, on behalf of the Board, of the delivery of wheat in a quota season, comply with any directions of the Board that have regard to quotas that are applicable under a law of the State providing for the fixing of wheat quotas.

(3) A person who delivers 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, in any corn sacks in which the wheat is contained, or in the payment to be made for the wheat or corn sacks, and all particulars known to him of those interests.

Unauthorized
dealings
with wheat.

12—(1) Except as provided in sections 10 and 11, or with the consent in writing of the Board, a person shall not—

- (a) sell, deliver, or part with the possession of, or take into his possession, or grist or otherwise process (otherwise than for the purpose of the use of the produce of the gristing or processing on the farm where the wheat was grown), or mix with any other grain or substance, wheat of any season other than wheat specified in section 10 (4) (b) or (c);
- (b) move, or cause or permit to be moved, from the farm where the wheat was grown—
 - (i) wheat of any season, other than wheat specified in section 10 (4) (b) or (c); or
 - (ii) wheat products produced from that wheat;
- (c) part with the possession of, or take into his possession, wheat of any season that is the property of the Board; or
- (d) purport to sell or offer for sale, or purport to purchase or offer to purchase (otherwise than from the Board), wheat of any season that is the property of the Board.

Penalty: An amount calculated, in respect of the quantity of the wheat, or of the wheat equivalent of the wheat products, in respect of which the offence is committed, at the rate of \$200 per tonne, or imprisonment for 6 months, or both.

(2) For the purposes of this section—

- (a) the wheat equivalent of any wheat products is the quantity of wheat used in, or used in the production of the materials used in, the wheat products;
- (b) a certificate of the Board specifying the wheat equivalent of a particular quantity of a particular kind of wheat products or the wheat equivalent of particular wheat products is *prima facie* evidence of the facts stated in the certificate; and
- (c) a person shall not be taken to part with the possession of wheat by reason only of the fact that he uses the wheat on the farm where it was grown.

Price to be paid
for wheat.

13—(1) Where wheat is delivered to the Board in pursuance of section 10, 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.

(2) The Board shall determine amounts payable under subsection (1) 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 determined by the Board having regard to the extent to which freight charges in respect of the export of wheat of that season from the State of Western Australia to places outside Australia are lower than freight charges in respect of the export of wheat of that season from other places in Australia to places outside Australia, but not exceeding an amount calculated at the rate of 92 cents per tonne of the wheat of that season exported from the State of Western Australia 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 quantity of wheat so delivered by each such person, with proper allowance for differences in the quality of wheat and for charges by the Board in respect of costs of the transport of wheat to terminal ports from places at which wheat has been delivered to the Board, corn sacks in which wheat was supplied to the Board, additional costs incurred by the Board in the handling and storage of wheat delivered to the Board in corn sacks, and other necessary adjustments in particular cases.

(3) 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.

(4) Subject to this section and to section 18, the net proceeds of the disposal of wheat of a season shall, for the purposes of this section, be deemed to be the net return from the disposal of that wheat (including corn sacks in which the wheat was sold) after deducting—

- (a) any charge imposed by the *Wheat Export Charge Act* 1974 of the Commonwealth in relation to wheat of that season; and
 - (b) costs incurred by the Board, to the extent that they relate wholly to wheat of that season or are reasonably allocated by the Board to wheat of that season and will not be covered by charges referred to in subsection (2) (c).
- (5) In ascertaining the net proceeds of the disposal of wheat of a season—
- (a) moneys received by the Board under a policy of insurance in respect of wheat of that season, or in respect of a transaction in relation to any such wheat, shall be deemed to be a return from the disposal of that wheat;
 - (b) amounts paid by the Board in respect of expenses referred to in section 40 (3) of the Commonwealth Act shall be deemed to be costs referred to in subsection (4) of this section;
 - (c) there shall be taken into account such of the payments made or received by the Board in accordance with section 17 (3) of the Commonwealth Act as the Board considers may equitably be related to wheat of that season;
 - (d) no account shall be taken of moneys to which section 20 or a corresponding provision of the Commonwealth Act, or of an Act of another State, applies or of costs of the Board payable out of those moneys; and
 - (e) there shall be taken into account payments made to the Board in accordance with section 18 (2) of the Commonwealth Act in relation to wheat of that season.
- (6) The costs referred to in subsection (4) (b) include costs paid or reimbursed by the Board in connection with the administration of a law of a State relating to wheat quotas.
- (7) The obligation of the Board under this section in respect of any wheat is subject to the operation of section 8 of the *Wheat Tax Act* 1957-1973 of the Commonwealth.

Quota seasons.

14—(1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, section 13 has effect as if references in that section to wheat of a season were references to wheat included in the pool for that season in accordance with this section.

(2) For the purposes of this section, “quota wheat”, in relation to a quota season (in this subsection referred to as “the relevant season”) means wheat of the relevant season delivered to the

Board in the relevant season, or wheat of an earlier quota season delivered to the Board in the earlier quota season but not included in the pool for that season, or delivered to the Board in the relevant season, being in either case—

- (a) wheat which appears from the records of the Board to be part of a quota allocated, in respect of the relevant season, to the State in which it was delivered under arrangements between the Australian Government and the Governments of the States relating to wheat quotas; and
- (b) if, under the law of the State in which the wheat was delivered relating to wheat quotas, quotas have been allocated to individual persons in respect of the relevant season, wheat which appears from the records of the Board to be the whole or a part of a quota applicable in respect of the relevant season to a person under that law,

and, for the purposes of this subsection, the Australian Capital Territory shall be deemed to be part of the State of New South Wales and the Northern Territory shall be deemed to be part of such State as is prescribed by the regulations under the Commonwealth Act.

(3) The pool for a quota season (in this subsection referred to as “the relevant season”) consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State):—

- (a) Wheat which is quota wheat in relation to the relevant season;
- (b) Any other wheat of the relevant season or of an earlier quota season delivered in the relevant season that is declared by the Board to have been sold by the Board, by way of export sale or sale for export, at a premium on the price of Australian standard white wheat, and paid for in full, during the relevant season; and
- (c) Any other wheat, being wheat of an earlier quota season, that—
 - (i) was delivered to the Board before the relevant season;
 - (ii) was not included in the pool for a season before the relevant season; and
 - (iii) is declared by the Board to have been sold by the Board, and paid for in full, before or during the relevant season.

(4) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State):—

- (a) Wheat of that season; and
- (b) Wheat of an earlier season, being a quota season, that was not included in the pool for an earlier season.

(5) The Board may, in such manner as it considers equitable, for the purposes of a declaration under subsection (3) (b) or (c) attribute sales of wheat of a particular kind to all or any of the wheat of that particular kind delivered by particular persons.

Payment by Board.

15—(1) Subject to subsections (4) and (5) and to any other law to which the Board is subject, the amount payable under section 13 in respect of any wheat, or wheat and corn sacks, 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 section 13 in respect of wheat, or wheat and corn sacks, as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat, or wheat and corn sacks, 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), an assignment of moneys payable by the Board in respect of wheat, or wheat and corn sacks, delivered to the Board (not including a registered crop lien) is void as against the Board.

(5) Where a person has assigned moneys payable to him by the Board in respect of wheat, or wheat and corn sacks, 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.

Declaration to be furnished as to old season's wheat.

16—(1) For the purposes of this section—

- (a) the final delivery day for the season that commenced on 1st October 1973 is 30th September 1974; and

(b) the final delivery day for a subsequent season is the day declared by the Commonwealth Minister, by notice published in the *Australian Government Gazette* under the Commonwealth Act, to be the final delivery day for that subsequent season.

(2) A person who delivers to a licensed receiver, after the final delivery day for a season, wheat harvested in that season, shall, at the time of delivery of the wheat, deliver to the licensed receiver a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

PART III

STABILIZATION PROVISIONS

17 In this Part, "season to which this Part applies" means the season commencing on 1st October 1974 or any of the next 4 succeeding seasons. Seasons to which Part applies.

18 For the purposes of section 13, the net proceeds of the disposal of wheat of a season to which this Part applies shall be deemed to include— Payments from Wheat Prices Stabilization Fund.

(a) any amount paid to the Board in respect of that season in pursuance of subsection (4) of section 30 of the Commonwealth Act, out of the Wheat Prices Stabilization Fund referred to in that section; and

(b) any amount referred to in subsection (4) of section 31 of the Commonwealth Act received by the Board out of that Fund, and any amount of interest referred to in that subsection, being an amount that the Board is required by that subsection to apply as if it were part of the proceeds of the disposal by the Board of the wheat of that season delivered to the Board.

19—(1) The price at which, in the year commencing on 1st December 1974 or any of the next 4 succeeding years, the Board shall, by a contract made in the State, sell wheat for use or consumption in Australia is the price that would be applicable under the Commonwealth Act if the contract were made in the Australian Capital Territory. Home consumption price of wheat.

(2) Notwithstanding the repeal of sections 20A and 20AA of the *Wheat Industry Stabilization Act 1968*—

(a) the provisions of those sections continue to be applicable to sales made after the commencement of this Act and before 1st December 1974; and

(b) all moneys received by the Board in respect of those sales by reason of the operation of section 20AA (3) and (4) of that Act shall be deemed to be moneys to which section 20 (1) of this Act applies.

Special account
for freight to
the State.

20—(1) Subject to this section, the Board shall keep a separate account of the moneys received by the Board by reason of the inclusion in the price for a sale of wheat to which section 19 (1) applies of an amount in respect of the costs of shipment of wheat by the Board to this State 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) with any similar account or accounts to be kept by it under the Commonwealth Act or under the law of another State or States.

(3) The Board shall use the moneys referred to in subsection (1) in meeting the costs of shipment of wheat by the Board to this State, 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) that remain unexpended after the Board has disposed of the whole of the wheat of the season ending on 30th September 1979 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 that, immediately before the commencement of this Act, stood to the credit of the account kept by the Board for the purposes of section 21 of the *Wheat Industry Stabilization Act* 1968 shall be deemed to be moneys referred to in subsection (1).

PART IV

MISCELLANEOUS

Use of funds
by Board.

21 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.

Board may
require returns.

22—(1) For the purposes of this Act, the Board may, by notice in writing served on the person to whom it is addressed either—

(a) personally; or

(b) by post at his usual or last-known place of abode or business, require a person to furnish in writing to the Board, within the time specified in the notice, such information relating to wheat of any season, wheaten flour, semolina, corn sacks, jute or jute products as is specified in the notice.

(2) A person shall not, without reasonable excuse—

(a) refuse or fail to comply with a requirement under this section; or

(b) furnish to the Board any information that is false or misleading in a particular.

23 A person having 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.

Proper care to be taken of wheat owned by Board.

24—(1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

Access to premises.

(2) Where an authorized person, being a police officer or a Commonwealth police officer, has reason to believe that—

(a) there is on any premises wheat of any season that is the property of the Board and is not in the possession of the Board or a person authorized by the Board, or wheat the delivery of which has been lawfully required by the Board under this Act; or

(b) there are on any premises books, documents, or other papers relating to wheat of any season or to corn sacks,

the authorized person may make application to a justice for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

(3) If, on an application under subsection (2), the justice is satisfied by information on oath—

(a) that there is reasonable ground for believing that there is on the premises any wheat, or that there are on the premises any books, documents, or papers, referred to in subsection (2); and

(b) that the issue of the warrant is reasonably required for purposes of, or related to the operation of, this Act,

the justice may issue a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4) A warrant under subsection (3) shall specify a date after which the warrant ceases to have effect.

(5) Where an authorized person has entered any premises in pursuance of subsection (1) or in pursuance of a warrant granted under subsection (3), he may exercise the functions of an authorized person under this section.

(6) The functions of an authorized person under this section are—

- (a) to search for and inspect wheat of any season or corn sacks;
- (b) to search for, inspect, take extracts from, and make copies of, books, documents, or papers referred to in subsection (2); and
- (c) to take possession of and remove wheat referred to in subsection (2) and corn sacks in which any such wheat is contained.

(7) Wheat of a season referred to in section 5, other than wheat that is the property of the Board, of which possession is taken in accordance with this section, and any corn sacks in which the wheat is contained, 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.

(8) In this section—

“ authorized person ” means a person appointed by the Board or the chairman of the Board to be an authorized person for the purposes of this section;

“ occupier ”, in relation to premises, includes the person in charge of the premises.

Notices by
Board.

25 A notice, authority, communication, or instrument given or made by the Board shall be sufficiently authenticated if signed by the chairman on behalf of the Board, and a notice, authority, communication or instrument so signed shall, in the absence of proof to the contrary, be deemed to have been given or made with the authority of the Board.

26 A member of the Board is not personally liable for an act of Indemnity. the Board or of the member acting as such.

27 A person who contravenes or fails to comply with a provision Regulations. of this Act for which no other penalty is provided is guilty of an offence and liable to a penalty of \$200 or imprisonment for 6 months.

28 The Governor may make regulations for the purposes of this Offences. Act and the regulations may make provision for penalties not exceeding a fine of \$200 or imprisonment for 6 months, or both, for offences against the regulations.