

“(2.) Wherever any person is convicted of an offence under this Act and any other person has suffered loss by reason of that offence, the Court may, in addition to any penalty imposed upon the offender, order the offender to make to the person who suffered loss such reparation, by way of money payment or otherwise, as the Court thinks just.

“(3.) Nothing in this Act shall affect the right of any person aggrieved by any act or omission which is punishable as an offence under this Act to institute civil proceedings in any court of competent jurisdiction in respect of that act or omission.”

8. Section sixteen of the Principal Act is amended by inserting **Regulations.** after paragraph (c) the following paragraph :—

“(ca) prescribing the practice and procedure in connexion with appeals under section fourteen **κ** of this Act ;”

WOOL REALIZATION (DISTRIBUTION OF PROFITS).

No. 87 of 1948.

An Act to provide for the Distribution of any ultimate Profit accruing to the Commonwealth under the Wool Disposals Plan, and for other purposes.

[Assented to 21st December, 1948.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Wool Realization (Distribution of Profits) Act 1948.* **Short title.**
2. This Act shall come into operation on the day on which it **Commencement.** receives the Royal Assent.
3. This Act is divided into Parts, as follows :— **Parts.**
 - Part I.—Preliminary.
 - Part II.—Distributable Profits.
 - Part III.—Persons Entitled.
 - Part IV.—Method of Distribution.
 - Part V.—Financial.
 - Part VI.—Miscellaneous.

Interpretation.

4.—(1.) In this Act, unless the contrary intention appears—

“appraised value”, in relation to wool, means the value at which the wool was appraised under the National Security (Wool) Regulations;

“broker” means a wool selling broker who was at any time approved under regulation twenty-five of the National Security (Wool) Regulations, and includes the successor in business of any such wool selling broker;

“dealer”, in relation to any wool, means a person, not being a broker or a person who owned the sheep from which the wool was produced, who submitted the wool for appraisal in the course of a business of dealing in wool or of acting as an agent in the submission of wool for appraisal;

“declared amount of profit” means an amount which has been specified in a notice published in the *Gazette* in pursuance of section six of this Act;

“participating wool” means wool appraised under the National Security (Wool) Regulations (whether under those Regulations when in force under the *National Security Act* 1939, or that Act as amended, or under those Regulations when in force under the *Wool Realization Act* 1945, or that Act as amended), being wool which was listed as participating wool in the appraisal catalogue used by the appraisers for the purpose of that appraisal;

“the Commission” means the Australian Wool Realization Commission established under the *Wool Realization Act* 1945-1946;

“the distribution list” means the list kept by the Commission in pursuance of section eighteen of this Act;

“the net profit” means the amount remaining after deducting from the wool disposals profit the expenses and charges of the Commission in administering this Act, other than commission payable to brokers;

“the wool disposals profit” means the credit balance, if any, found to have accrued to the Commonwealth upon the taking of an account of—

(a) the Commonwealth's share in the ultimate balance of profit (or loss) arising from the transactions of the Joint Organization; and

(b) the moneys received by the Commonwealth from the Government of the United Kingdom in pursuance of the arrangement between the Commonwealth and that Government for the sharing of profits arising from the disposal of sheepskins acquired under the National Security (Sheepskins) Regulations.

(2.) Expressions used in this Act which are defined in the *Wool Realization Act 1945-1946* shall, unless the contrary intention appears, have the same meanings as in that Act.

(3.) Any reference in this Act to the expenses and charges of the Commission in administering this Act shall be read as a reference to the amount remaining after deducting the amount received by the Commission by way of commission under sub-section (2.) of section twenty-three of this Act from the amount of the expenses and charges of the Commission in administering this Act.

PART II.—DISTRIBUTABLE PROFITS.

5. As soon as practicable after the wool disposals profit has been ascertained, the Treasurer shall notify the amount thereof in the *Gazette*, and the amount so notified shall, for all purposes of this Act, be the amount of the wool disposals profit. Notification of wool disposals profit.

6.—(1.) At any time before the wool disposals profit has been ascertained, the Minister may, with the approval of the Treasurer and after consultation with the Commission, and if he is satisfied that the financial position under the Disposals Plan justifies his so doing, by notice published in the *Gazette*, declare an amount to be available for distribution under this Act out of the expected net profit. Declared amounts of profit.

(2.) The moneys referred to in paragraph (b) of the definition of “the wool disposals profit” in section four of this Act shall not be taken into account by the Minister for the purposes of the last preceding sub-section.

(3.) When—

- (a) the wool disposals profit has been ascertained; and
- (b) the expenses and charges of the Commission in administering this Act (other than commission payable to brokers) including the estimated expenses and charges of a final distribution, have been certified by the Commission to the Minister,

the Minister shall, by notice published in the *Gazette*, declare a final amount to be available for distribution under this Act, being an amount equal to the excess of the net profit over the sum of the amounts (if any) in respect of which declarations have been made under sub-section (1.) of this section.

(4.) The amount certified by the Commission in pursuance of paragraph (b) of the last preceding sub-section shall, for all purposes of this Act, be deemed to be the amount of the expenses and charges of the Commission in administering this Act (other than commission payable to brokers).

PART III.—PERSONS ENTITLED.

Distribution
of declared
amounts of
profit.

7.—(1.) Subject to this Act, an amount equal to each declared amount of profit shall be distributed by the Commission in accordance with this Act.

(2.) There shall be payable by the Commission, out of each amount to be distributed under this Act, in relation to any participating wool, an amount which bears to the amount to be distributed the same proportion as the appraised value of that wool bears to the total of the appraised values of all participating wool.

(3.) Subject to this Act, an amount payable under this Act in relation to any participating wool shall be payable to the person who supplied the wool for appraisalment.

(4.) Where two or more persons jointly supplied participating wool for appraisalment, those persons shall, for the purpose of determining their claims in relation to that wool in any distribution under this Act, be treated as one person.

Wool submitted
by dealers.

8.—(1.) For the purposes of this Act, wool which was submitted by a dealer for appraisalment shall be deemed to have been supplied for appraisalment—

(a) where only one dealer has dealt with the wool—

(i) if that dealer submitted the wool as agent for another person—by that person; or

(ii) if that dealer submitted, or purported to submit, the wool on his own behalf—by the person from whom he obtained the wool; or

(b) where more than one dealer has dealt with the wool—by the person for whom the first such dealer to deal with the wool acted as agent, or by the person from whom that dealer obtained the wool, as the case may be.

(2.) The last preceding sub-section shall not apply in relation to wool which was owned by a dealer at any time before the twenty-eighth day of September, One thousand nine hundred and thirty-nine.

(3.) Notwithstanding the terms of any contract (whether made before or after the commencement of this Act), a dealer shall not be entitled to recover from another person the whole or any part of any moneys paid to that other person under this Act.

Bankrupt
estates.

9.—(1.) Where any participating wool was supplied for appraisalment by—

(a) a person whose affairs have at any subsequent time been administered, or are being administered, under any of the provisions of the *Bankruptcy Act* 1924–1948, by a trustee;

(b) a person who has died and whose estate has at any subsequent time been, or is being, so administered; or

(c) a personal representative in the administration of an estate which has at any subsequent time been, or is being, so administered,

an amount which would otherwise be payable under this Act to the person who supplied the participating wool or his personal representatives shall, subject to this section, be payable to the trustee.

(2.) An amount received by a trustee by virtue of this section shall, for all purposes of the *Bankruptcy Act 1924-1948* and of any instrument executed in pursuance of that Act, be deemed to be received by him in his capacity as trustee.

(3.) This section shall not apply in any case in which—

- (a) the creditors who were entitled to share in distributions by the trustee have been paid in full; or
- (b) the trustee was acting under a sequestration order, and that order has been annulled.

10.—(1.) Where participating wool was supplied for appraisalment by a company which is defunct, an amount which would otherwise be payable under this Act to the company may be paid by the Commission to such person as appears to the Commission to be justly entitled to receive it.

Defunct
companies and
dissolved
partnerships.

(2.) Where participating wool was supplied for appraisalment by a partnership which has been dissolved, an amount which would otherwise be payable under this Act to the partnership may be paid by the Commission to any former partner or partners (including the personal representatives of a deceased former partner).

(3.) Where an amount has been paid in pursuance of this section, the rights, duties and liabilities of the person to whom it is paid in respect of the amount shall be the same as if it were part of the proceeds of a sale of the wool by the company or partnership, made at the time of the supply of the wool for appraisalment.

11. Subject to section nine of this Act, where participating wool was supplied for appraisalment by a person who has died—

Deceased
persons.

- (a) any amount which would otherwise be payable under this Act to that person shall be payable to the personal representatives of that person; and
- (b) the rights, duties and liabilities of the personal representatives in respect of the amount shall be the same as if it were part of the proceeds of a sale of the wool by the deceased person made at the time of the supply of the wool for appraisalment.

12. Subject to section nine of this Act, where participating wool was supplied for appraisalment by a person acting in the capacity of trustee, or of personal representative of a deceased person, and there has been a change in the identity of the trustees of the trust or of the personal representatives of the deceased person, an amount otherwise payable under this Act to the person who supplied the wool for appraisalment shall be payable to the trustees for the time being of the trust or the personal representatives for the time being of the deceased person.

Personal
representatives
and trustees.

Holder of
security.

13. Where a person supplied any participating wool for appraisalment in pursuance of any rights which he had in respect of that wool by way of security, he shall have and be subject to the same rights, duties and liabilities in respect of an amount payable to him under this Act in relation to that wool as if that amount were part of the amount which was paid upon the appraisalment of the wool.

No distribution
where amount
less than one
pound.

14. Where the amount which would, but for this section, be payable to any person in any one distribution under this Act is less than One pound, that amount—

- (a) shall not be payable to that person ; and
- (b) shall be dealt with as if it were an amount of unclaimed moneys to which sub-section (2.) of section twenty-seven of this Act applied.

PART IV.—METHOD OF DISTRIBUTION.

Returns by
brokers.

15.—(1.) Every broker shall, upon request in writing by the Commission, furnish to the Commission, within the time specified in the request, in a form directed by the Commission, a return setting out, so far as known to the broker—

- (a) the name and address of every person who supplied, and of every dealer who submitted, participating wool through the broker for appraisalment ; and
- (b) the appraised values in each case of the participating wool so supplied or submitted,

and indicating which of the persons mentioned in the return were dealers.

(2.) Where a broker is aware that a person (including a partnership) whose name is included in the return—

- (a) is deceased ;
- (b) is a company which is in liquidation or has been dissolved ;
- (c) is a partnership which has been dissolved ; or
- (d) is a person whose affairs are being, or have been since the wool concerned was submitted for appraisalment, administered under any of the provisions of the *Bankruptcy Act* 1924–1948 by a trustee,

he shall state the fact in the return, and shall include in the return any information in his possession which might assist the Commission in ascertaining the person entitled to share in distributions under this Act in relation to the wool supplied for appraisalment by that person.

(3.) Each broker shall, within a time specified by the Commission by notice in writing, send to each person mentioned in the return furnished by the broker a notice, in a form approved by the Commission, informing that person that his name has been included in the return and stating the amounts of the appraised values set out in relation to that person in the return.

(4.) Where a broker becomes aware of any error in the return furnished by him, he shall forthwith notify to the Commission the correction which should be made.

16. The Commission may, by notice in writing, require any person to furnish in writing to the Commission, within the time specified in the notice, such information as is specified in the notice, being information which the Commission requires for the purpose of enabling it to ascertain the persons entitled to share in a distribution under this Act, and the shares of those persons in the distribution. Returns by other persons.

17. A person who claims to be entitled to share in a distribution under this Act, and who is not satisfied that his claim will otherwise be considered, may apply to the Commission for recognition of his claim, and shall furnish such information and evidence, by statutory declaration or otherwise, in support of his claim as the Commission requires. Claims may be made.

18.—(1.) The Commission shall prepare and keep a list showing— List of entitled persons to be kept by Commission.

(a) the persons who, in the opinion of the Commission, are entitled to share in distributions under this Act; and

(b) the appraised values of the wool in relation to which each such person is, in the opinion of the Commission, so entitled.

(2.) Subject to this section, the list shall include the names (other than names of dealers) set out in the returns furnished by brokers and the amounts so set out in relation to those names.

(3.) The Commission may—

- (a) use a return furnished in pursuance of this Act as part of the distribution list; and
- (b) for that purpose make such alterations in the return as are necessary, but so that any such alterations are made in such a manner as to be clearly identifiable as alterations made after the furnishing of the return.

(4.) The Commission may, where it is satisfied that it is necessary so to do in order to give effect to this Act—

- (a) remove a name from the distribution list or vary the amounts shown in relation to a name;
- (b) substitute another name for a name appearing on the distribution list;
- (c) add a name to the distribution list, together with an amount in relation to that name,

but shall thereupon send notice in writing of the action taken to the person or persons concerned.

(5.) The Commission shall, upon request by any person, give to that person information in writing as to—

- (a) whether his name appears on the distribution list; and
- (b) the appraised values shown on the list in relation to his name.

List to be
basis of
distribution.

19. For the purposes of a distribution by the Commission under this Act—

- (a) the persons whose names are shown on the distribution list shall be treated by the Commission as persons entitled to share in the distribution; and
- (b) the amounts shown on the distribution list in relation to those persons shall be treated by the Commission as the amounts of the appraised values of participating wool by reference to which the shares of those persons in the distribution are to be ascertained.

Payment into
court by
Commission.

20.—(1.) Where the Commission is in doubt as to the identity of the person whose name should be included in the distribution list in relation to any participating wool, the Commission may pay an amount payable under this Act in relation to that wool into any court (including a court of a State) having jurisdiction in actions for the recovery of debts equal to that amount.

(2.) A court into which an amount is so paid shall have jurisdiction—

- (a) to determine the person entitled to the amount;
- (b) to order payment of the amount in accordance with its determination; and
- (c) to make such other order in relation to the amount as appears to it to be just.

(3.) If the whole or any part of an amount paid into court under this section has not been paid out at the expiration of three years after it was paid into Court, it shall be repaid to the Commission or, if the Commission is not then in existence, to the Treasurer, and shall be deemed to be unclaimed moneys to which section twenty-seven of this Act applies.

(4.) Subject to any rules of court which are applicable, a court may give such directions as it considers necessary in relation to proceedings in respect of an amount paid into the court in pursuance of this section.

Brokers to act
as agents of
Commission.

21.—(1.) The Commission may enter into an agreement with a broker for the appointment of that broker as agent of the Commission for the purposes of the distribution of moneys under this Act in relation to wool submitted for appraisalment through him.

(2.) A broker shall comply with all directions of the Commission in relation to the performance of his functions under any such agreement.

(3.) A broker may deduct from each amount paid by him on behalf of the Commission a commission at the rate fixed from time to time by the Minister by notice in the *Gazette*, and the amount which the person to whom the payment is made would otherwise be entitled under this Act shall be reduced by the amount of the commission so deducted.

(4.) A broker—

- (a) shall account to the Commission, in the manner and at the times required by the Commission by notice in writing, in respect of moneys provided by the Commission for the purpose of payments by the broker under this Act; and
- (b) shall be liable, on demand by the Commission by notice in writing, to repay to the Commission any such moneys other than moneys which have, in accordance with this Act, been paid by the broker or retained by the broker as commission.

(5.) A broker shall, if required by the Commission by notice in writing so to do, submit his books and accounts relevant to the performance of his functions as agent of the Commission to the Commission for audit by the Auditor-General.

22. Subject to any directions of the Minister, the Commission shall pay to a dealer or other person who has furnished returns or information required under this Act such remuneration for the work involved in preparing the returns or information as the Commission fixes. Remuneration
of dealers.

23.—(1.) The Commission may make charges, on a basis approved by the Minister, for the performance of its functions under this Act. Charges, &c., of
Commission.

(2.) Where the Commission makes a payment under this Act otherwise than through the agency of a broker, the Commission may deduct from the amount otherwise payable a commission at the rate fixed from time to time by the Minister.

PART V.—FINANCIAL.

24.—(1.) The amount paid by the Commonwealth to the Commission before the commencement of this Act representing the moneys specified in paragraph (b) of the definition of “the wool disposals profit” in section four of this Act shall be applied by the Commission for the purposes of, and in accordance with, this Act. Funds to be
made
available to
Commission.

(2.) When the Commonwealth has received the moneys representing the share of profit (if any) specified in paragraph (a) of the definition of “the wool disposals profit” in section four of this Act, an amount equal to those moneys shall be payable to the Commission by the Commonwealth, out of moneys lawfully made available by the Parliament, for the purposes of this Act, including the repayment of advances (including interest thereon) received by the Commission in pursuance of arrangements made under the next succeeding section.

25. The Minister may, with the approval of the Treasurer, arrange with the Commonwealth Bank of Australia for the making by that Bank of advances to the Commission for the purposes of this Act, and may guarantee to that Bank the re-payment, out of moneys lawfully made available by the Parliament, of any advances (including interest thereon) made by the Bank in pursuance of any such arrangements. Arrangements
with
Commonwealth
Bank for
advances.

Indemnity to
the Commission.

26.—(1.) The Commission may, subject to the approval of the Minister, set aside out of any amount to be distributed under this Act such sum as it considers necessary for the purposes of settling unforeseen claims and of indemnifying the Commission in respect of loss which might otherwise be incurred by the Commission in the performance in good faith of its functions under this Act, and may apply for any such purpose the whole or any part of the sum so set aside.

(2.) The amount to be distributed shall, for the purposes of the provisions of this Act other than this section, be deemed to be reduced by any amount set aside in pursuance of this section.

(3.) The Commission may use any amount set aside in pursuance of this section, to the extent that it has not been required for the purposes for which it was set aside, to increase the amount which would otherwise be distributed in a subsequent distribution.

(4.) Any amount set aside under this section, to the extent to which it has not, before the expiration of a period of two years after the date of publication of the notice in the *Gazette* declaring the final declared amount of profit, been applied for the purposes for which it was set aside or used as provided in the last preceding sub-section, shall be dealt with as if it were an amount of unclaimed moneys to which sub-section (2.) of the next succeeding section applies.

Unclaimed
moneys.

27.—(1.) Where the Commission is unable to effect payment in accordance with this Act of any moneys payable under this Act, the Commission shall retain the moneys as unclaimed moneys until the expiration of two years after the date of publication in the *Gazette* of the notice declaring the final declared amount of profit, but may, at any time before the expiration of that period of two years, pay the amount to a person entitled under this Act to receive it.

(2.) Any such moneys which remain unpaid at the expiration of the period of two years specified in the last preceding sub-section shall be paid to the credit of the Wool Industry Fund established under the *Wool Industry Fund Act 1946*.

(3.) If the Commission ceases to exist before it has disposed of all such unclaimed moneys, the remaining unclaimed moneys shall be paid to the Treasurer, who shall credit the moneys to a trust account, and may deal with those moneys in the same manner as the Commission could have done if it had not ceased to exist.

PART VI.—MISCELLANEOUS.

No action to
lie against
Commission.

28. No action or proceedings shall lie against the Commission or the Commonwealth for the recovery of any moneys claimed to be payable to any person under this Act, or of damages arising out of anything done or omitted to be done by the Commission in good faith in the performance of its functions under this Act.

29. Subject to this Act and the regulations, a share in a distribution under this Act, or the possibility of such a share, shall be, and be deemed at all times to have been, absolutely inalienable prior to actual receipt of the share, whether by means of, or in consequence of, sale, assignment, charge, execution or otherwise. Assignments not permitted.

30. Where the Commission has paid any amount under this Act to a person who was not entitled to receive it, the Commission may (notwithstanding that the payment was made in accordance with the distribution list) recover from that person, by action in any court of competent jurisdiction, as a debt due by that person to the Commission— Payments made in error.

(a) the whole of that amount; or

(b) if any part of that amount has been paid by that person to, or recovered from that person by, a person who was entitled under this Act to the sum so paid or recovered— so much of that amount as remains after deducting the sum so paid or recovered.

31. A notice required or permitted by this Act to be given by the Commission may be given by serving the notice by post on the person to whom it is addressed at the last-known place of abode, or at any place of business, of that person. Service of notices.

32. A person shall not, in any return or claim furnished or made for the purposes of this Act, or otherwise in connexion with this Act, furnish to the Commission or an agent of the Commission any information which is false or misleading in any particular. False returns or information.

33. A broker or dealer shall not—

(a) except with the consent of the Commission, destroy, or part with the possession of, any books, documents or papers which relate to wool which was at any time submitted for appraisalment, or the payment of moneys in connexion with any such wool; or Destroying records.

(b) with intent to mislead the Commission, or to defraud, alter or deface any entry in any such books, documents or papers.

34. A person shall not contravene, or fail to comply with, any provision of this Act which is applicable to him. Offences.

Penalty: One hundred pounds, or imprisonment for six months, or both.

35. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for prescribing penalties not exceeding a fine of One hundred pounds for offences against the regulations. Regulations.