



ANNO VICESIMO SEXTO

**ELIZABETHAE II REGINAE**

A.D. 1977

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**No. 39 of 1977**

An Act to amend the Barley Marketing Act, 1947-1973; to repeal the Oats Marketing Act, 1972, and for other purposes.

[Assented to 15th December, 1977]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**Short titles.**

1. (1) This Act may be cited as the "Barley Marketing Act Amendment Act, 1977".

(2) The Barley Marketing Act, 1947-1973, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Barley Marketing Act, 1947-1977".

**Commence-  
ment.**

2. This Act shall come into operation on a day to be fixed by proclamation.

**Amendment of  
principal Act—  
Long title.**

3. The principal Act is amended by striking out the long title thereto and inserting in lieu thereof the following long title:—

An Act to provide for the constitution of the Australian Barley Board and for other purposes.

**Enactment of  
s. 2a of  
principal Act—**

4. The following section is enacted and inserted in the principal Act after section 2 thereof:—

**Repeal of Oats  
Marketing Act,  
1972.**

2a. The Oats Marketing Act, 1972, is repealed.

**Amendment of  
principal Act,  
s. 3—  
Interpretation.**

5. Section 3 of the principal Act is amended—

(a) by striking out the definition of "licensed receiver" and inserting in lieu thereof the following definitions:—

“licensed receiver” means—

(a) in relation to barley, a person licensed under this Act to receive barley on behalf of the board;

and

(b) in relation to oats, a person licensed under this Act to receive oats on behalf of the board:

“oats” includes the grain known by that name, growing crops of that grain, gristed grain of that name and grain of that name treated in any other manner or by any process converted into the product of grain of that name but does not include wild oats:

“proclaimed produce” means grain or seed of a class or kind for the time being declared by proclamation to be proclaimed produce for the purposes of this Act:

“wild oats” means the following species of the genus *avena*—

(a) *A. barbata*, Pott ex Link.;

(b) *A. fatua*, L.;

(c) *A. ludoviciana*, Durieu.;

and

(d) *A. sterilis* L.;

and

(b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) The Governor may by proclamation declare a class or kind of grain or seed to be proclaimed produce for the purposes of this Act and may by a subsequent proclamation amend, revoke or vary any such declaration.

6. The following section is enacted and inserted in the principal Act after section 8 thereof:—

Enactment of  
s. 8a of  
principal Act—

8a. (1) The board may license any person to receive oats on behalf of the board.

Licensed  
receivers  
of oats.

(2) A licence granted pursuant to this section may contain such terms and conditions as are fixed by the board and such a licence may be revoked or suspended upon breach by the holder thereof of any such term or condition.

7. Section 9 of the principal Act is amended—

Amendment of  
principal Act,  
s. 9—  
Powers of  
board.

(a) by striking out from paragraph (a) the passage “barley skins, barley bran, barley pollard” and inserting in lieu thereof the passage “oats, proclaimed produce”;

(b) by inserting in paragraph (c) after the word “barley” the passage “, oats or proclaimed produce”;

- (c) by inserting in paragraph (d1) after the passage "sale of barley" the passage "or oats";
- (d) by striking out from paragraph (d1) the passage "seed barley" and inserting in lieu thereof the passage "barley or oats";
- (e) by striking out paragraph (d2) and inserting in lieu thereof the following paragraph:—

(d2) charter ships or vessels;;

and

- (f) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsections:—

(2) Any liability incurred under paragraph (b) of subsection (1) of this section and with the consent of the Treasurer is hereby guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) of this section shall be satisfied out of the General Revenue of this State which is hereby, to the necessary extent, appropriated accordingly.

Amendment of  
principal Act,  
s. 10—  
Inspections.

8. Section 10 of the principal Act is amended by inserting in subsection (1) after the word "barley" twice occurring, in each case, the passage "or oats".

Amendment of  
principal Act,  
s. 12—  
Accounts and  
audit.

9. Section 12 of the principal Act is amended by inserting after subsection (4) the following subsection:—

(5) The accounts of the board relating to oats of each season shall be kept separately from the accounts relating to oats of other seasons, and in each season separate accounts shall be kept for manufacturing and feed grade oats respectively.

Amendment of  
heading of  
principal Act.

10. The heading in the principal Act appearing immediately before section 14 thereof is amended by inserting after the word "*Barley*" the passage "*and Oats*".

Enactment of  
s. 14aa of  
principal Act—

11. The following section is enacted and inserted in the principal Act after section 14 thereof:—

Sale and  
delivery of  
oats.

14aa. (1) Subject to this section, a person shall not after the appointed day sell or deliver oats to any person other than the board.

(2) Nothing in this section shall apply to—

- (a) oats retained by the grower for use on the farm where it is grown;
- (b) oats which have been purchased from the board;
- (c) oats sold or delivered to any person with the approval of the board;
- (d) oats sold at any auction market in accordance with a permit granted by the board;

- (e) oats the subject of trade, commerce or intercourse between States or required by the owner thereof for the purpose of trade, commerce or intercourse between States;

or

- (f) oats sold to a person where those oats are not resold by that person otherwise than in a manufactured or processed form including, without limiting the generality thereof, the processed form of chopped, crushed or milled oats.

(3) In this section "the appointed day" means the day declared by the board by notice in the *Gazette* to be the appointed day for the purposes of this section.

**12. Section 14a of the principal Act is amended—**

Amendment of principal Act, s. 14a—  
Purchase, etc., of barley or oats from growers.

- (a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) A person shall not—

- (a) buy barley from the grower thereof without the written approval of the board;

or

- (b) buy oats from the grower thereof where the sale of those oats by that grower would be a contravention of section 14aa of this Act.;

- (b) by inserting in subsection (1a) after the word "barley" the passage "or oats";

- (c) by inserting in subsection (1b) after the word "barley" the passage "or oats";

and

- (d) by inserting in subsection (2) after the word "barley" the passage "or oats".

**13. Section 15 of the principal Act is amended—**

Amendment of principal Act, s. 15—  
Delivery of barley or oats.

- (a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Any person may deliver barley or oats to the licensed receiver who is authorized by the board to accept that barley or those oats, as the case may be, from the area wherein that barley or those oats were grown, or to accept that barley or those oats.;

- (b) by inserting in subsection (2) after the word "barley" the passage "or oats";

and

- (c) by inserting in subsection (3) after the word "barley" thrice occurring, in each case, the passage "or oats".

**14. Section 16 of the principal Act is amended by inserting after the word "barley" twice occurring, in each case, the passage "or oats".**

Amendment of principal Act, s. 16—  
Receiver to hold barley or oats.

Enactment of  
s. 17a of  
principal Act—

15. The following section is enacted and inserted in the principal Act after section 17 thereof:—

Declaration  
to be provided  
for old season's  
oats.

17a. (1) Any person who, after the prescribed day, consigns or delivers to a licensed receiver any oats harvested on or before that day, shall make and forward to the licensed receiver a declaration correctly stating the season during which those oats were harvested.

(2) For the purposes of this section “the prescribed day” means the day which, in respect of each season, is declared by the board by notice published in the *Gazette* to be the final day of that season.

Enactment of  
s. 18a of  
principal Act—

16. The following section is enacted and inserted in the principal Act after section 18 thereof:—

Duty of  
board to  
market oats.

18a. (1) The board shall market or otherwise dispose of to the best advantage all oats delivered to it under this Act.

(2) In marketing or disposing of oats the board shall have regard to the reasonable requirements of persons requiring oats for use or consumption in the State.

(3) The whole of the money received by the board from the sale or other disposal of oats shall be applied by the board in making payments to growers and paying the expenses of administering this Act.

Enactment of  
s. 19a of  
principal Act—

17. The following section is enacted and inserted in the principal Act after section 19 thereof:—

Price to be  
paid for oats.

19a. (1) The board shall pay the owner of any oats sold to it the price of those oats as determined by the board.

(2) In determining the price to be paid for any oats the board shall take into account—

(a) the amount received or to be received by the board from the sale of oats of the same classification and season;

(b) the expenditure incurred by the board in connection with transporting and marketing those oats and the administration of this Act;

(c) the expenditure incurred by the board in connection with the establishment of a reserve fund or any scheme for the amortization of the capital amounts and interest thereon expended for or in relation to facilities for the storage of oats;

(d) the place at which those oats are delivered to the board;

(e) any other circumstances affecting the value of the oats.

(3) The board may make progress payments, of such amount as the board deems reasonable, on account of any money payable or about to become payable by the board to any person as the price of oats.

(4) If after the board has made payments to growers for oats of any season, there remains a balance of the proceeds of the sale of such oats which is so small that, in the board's opinion, it is undesirable to make a separate distribution of it among the growers, the board may transfer that balance to a reserve fund to meet unforeseen contingencies.

Any such reserve fund may be invested by the board in such securities as it deems suitable, and the income thereof shall also be paid into the said reserve fund.

If at any time the board considers that the said reserve fund is greater than the amount required to meet unforeseen contingencies, it may transfer any portion of the fund into the current year's revenue from the sale of oats and deal with the amount so transferred as if it were such revenue.

The board may use any money in the said reserve fund to meet such liabilities or expenditure of the board as it deems proper.

(5) The board may deduct from any money payable to a person under this section any amount specified in a written request made to the board by any such person and may apply any amount so deducted towards the provision of bulk storage facilities for oats.

**18. Section 20 of the principal Act is amended—**

Amendment of  
principal Act,  
s. 20—  
Offences and  
penalties.

(a) by inserting in subsection (2) after the passage "offences against this Act shall" the passage " , except where some other penalty is provided,";

(b) by striking out from subsection (3) the passage "or the regulations";  
and

(c) by inserting after subsection (3) the following subsection:—

(4) Proceedings for an offence against this Act may be commenced at any time within the period of twelve months next following the day on which it is alleged the offence was committed.

**19. Section 20a of the principal Act is amended—**

Amendment of  
principal Act,  
s. 20a—  
Averment as to  
nature of  
grain, etc.

(a) by inserting after the passage "is barley" the passage "or are oats, as the case may be";

and

(b) by inserting after the word "barley" the passage "or, as the case may be, are oats".

**20. Section 21 of the principal Act is amended—**

Amendment of  
principal Act,  
s. 21—  
Regulations.

(a) by inserting in subsection (1) after the passage "growers of barley" the passage "or growers of oats";

and

(b) by inserting in subsection (1) after the passage "on ceasing to grow barley" the passage "or oats growers on ceasing to grow oats".

Amendment of  
principal Act,  
s. 22—  
Application  
of Act.

**21. Section 22 of the principal Act is amended—**

(a) by striking out the figures “1977-1978” and inserting in lieu thereof the figures “1982-1983”;

and

(b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) This Act shall apply to oats grown in the season 1978-1979, and in each of the four successive seasons.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. SEAMAN, Governor