



ANNO DUODECIMO

ELIZABETHAE II REGINAE

A.D. 1963

No. 33 of 1963

An Act relating to the Stabilization of the Wheat Industry.

[Assented to 21st November, 1963.]

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Wheat Industry Stabilization Act, 1963". Short title.

2. This Act shall come into operation on the day on which the Wheat Industry Stabilization Act 1963 of the Commonwealth comes into operation. Commencement.

3. This Act is divided into Parts, as follows:— Parts.

PART I.—Preliminary (Sections 1-7).

PART II.—Powers of the Australian Wheat Board (sections 8-9).

PART III.—Delivery of Wheat to the Australian Wheat Board (sections 10-20).

PART IV.—Miscellaneous (sections 21-23).

4. (1) The Wheat Industry Stabilization Act, 1958, is repealed. Repeal and savings.

(2) Notwithstanding the repeal effected by the last preceding subsection, but subject to the next succeeding subsection—

- (a) the provisions of the Wheat Industry Stabilization Act 1948-1953 continue to apply in relation to wheat harvested before the first day of October, One thousand nine hundred and fifty-three ;
- (b) the provisions of the Wheat Industry Stabilization Act 1954-1955 continue to apply in relation to wheat harvested before the first day of October, One thousand nine hundred and fifty-eight ; and
- (c) the provisions of the Wheat Industry Stabilization Act, 1958, continue to apply in relation to wheat harvested before the first day of October, One thousand nine hundred and sixty-three.

(3) A reference in any of the provisions referred to in the last preceding subsection to the Australian Wheat Board continued in existence by the Wheat Industry Stabilization Act 1958 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.

(4) Wheat harvested on or after the first day of October, One thousand nine hundred and sixty-three, and delivered to the Board before the commencement of this Act (including wheat delivered to a person who was a licensed receiver for the purposes of the Wheat Industry Stabilization Act, 1958) shall be deemed to have been delivered in pursuance of section 10 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.

Definitions.

- 5.** In this Act, unless the contrary intention appears—
- “licensed receiver” means a person, firm, company 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 :
 - “the Board” means the Australian Wheat Board continued in existence by the Commonwealth Act :
 - “the Commonwealth Act” means the Wheat Industry Stabilization Act 1963 of the Commonwealth :
 - “the 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 :

“the guaranteed price”, in relation to wheat of a season, has the same meaning as that expression has in the Commonwealth Act.

- 6.** This Act applies in relation to wheat harvested— Application of Act.
- (a) in the season that commenced on the first day of October, One thousand nine hundred and sixty-three ; and
- (b) in the next four succeeding seasons.

7. (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 last preceding subsection is in addition to, and not in substitution for, any other provision relating to the construction of Acts and statutory instruments subject to the Constitution.

PART II.

POWERS OF THE AUSTRALIAN WHEAT BOARD.

- 8.** (1) The Board may— Powers of Board.
- (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
- (f) do all things that the Board 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.

Licensed
receivers.

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

(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.

PART III.

DELIVERY OF WHEAT TO THE AUSTRALIAN WHEAT BOARD.

Delivery of
wheat.

10. (1) Subject to this section, 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 *Government 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—

(i) to deliver to the Board any wheat that is in the possession of that person ; or

(ii) to deliver to the Board any 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) Nothing in this section applies to—

- (a) wheat harvested before the first day of October, One thousand nine hundred and sixty-three ;
- (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) A person shall not—

- (a) refuse or fail to deliver any wheat to the Board as required by a notice under subsection (2) of this section ; or
- (b) deliver to the Board wheat that has previously been sold by the Board.

Penalty : Three times 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) Delivery of wheat to the Board may be made by delivering or consigning the wheat to a licensed receiver. Delivery to 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, 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.

12. Except as provided in the last two preceding sections, or with the consent in writing of the Board, a person shall not— Unauthorized dealings with wheat.

- (a) sell, deliver or part with the possession of, or take into his possession, wheat other than wheat specified in sub-section (4) of section 10 of this Act ;
- (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 : Three times 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.

Price to be paid for wheat.

13. (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.

(2) The Board shall determine amounts payable under the last preceding subsection 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 or such lesser amount as the Board determines having regard to the freight charges that have and may become payable in respect of such export and the rate or rates at which freight charges are payable in respect of the export of wheat from other places in 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 such 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 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 1963 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 20 of this Act, or a corresponding provision of the Commonwealth Act or an Act of another State, applies 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 referred to in 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) 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

(b) one hundred and fifty million,

whichever is the less.

(8) In ascertaining the average price for the purposes of the last preceding subsection, 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 which 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.

(9) 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 of the Commonwealth.

Payment by
Board.

14. (1) The amount payable under this Act 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 this Act 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 the next succeeding subsection, 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) 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, 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.

15. (1) A person who—

(a) consigns or delivers to a licensed receiver wheat harvested before the thirtieth day of September, One thousand nine hundred and sixty-three ; or

(b) consigns or delivers to a licensed receiver, after the final delivery day in respect of a season, wheat harvested in that season,

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.

16. (1) A member of the police force of the Commonwealth or of the State who is authorized by the Board or the Chairman of the Board to act under this section may—

Entry of premises, seizure of wheat, etc.

(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, and any corn sacks in which any such wheat is contained or that are the property of the Board.

(2) A person shall not hinder or obstruct a person in the exercise of powers under this section.

(3) Wheat, other than wheat that is the property of the Board, of which possession is taken under subsection (1) of 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.

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

Board may require returns.

(a) personally ; or

(b) by post at his 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, 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.

18. 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.

19. (1) The price at which the Board shall sell wheat for manufacture into wheat products for human consumption in

Home consumption price of wheat.

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 the guaranteed price for wheat of the season that is current at the beginning of the year in which the sale is made.

(3) The price applicable under the last preceding subsection shall be increased by an amount of twopence per bushel for the purpose of reimbursing the Board for the costs of shipment of wheat to the State of Tasmania.

(4) If the Board reports to the Commonwealth Minister that the amounts being received by the Board by reason of the operation of the last preceding subsection, together with amounts being received under corresponding provisions of the Commonwealth Act and of the laws of the other States, are greater or less than the amounts required to meet the costs of shipment of wheat by the Board to the State of Tasmania, 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.

(5) 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.

(6) In this section, "year" means the period of twelve months commencing on the first day of December, One thousand nine hundred and sixty-three, and each subsequent period of twelve months.

(7) Notwithstanding the repeal of section 17 of the Wheat Industry Stabilization Act, 1958—

- (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 after the commencement of this Act and before the first day of December, One thousand nine hundred and sixty-three; and
- (b) all moneys received by the Board in respect of such sales by reason of the operation of subsection (3) of that section shall be deemed to be moneys to which subsection (1) of the next succeeding section applies.

20. (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 (3) and (4) of the last preceding section, and of payments made out of those moneys, and shall not apply those moneys except in accordance with this section.

Special
account for
freight to the
State of
Tasmania.

(2) The Board may combine the account required to be kept under the last preceding subsection 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) of this section in meeting the costs of shipment of wheat by the Board to the State of Tasmania, 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 which 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 that, immediately before the commencement of this Act, were standing to the credit of the account kept by the Board for the purposes of section 18 of the Wheat Industry Stabilization Act, 1958, shall be deemed to be moneys to which subsection (1) of this section applies.

PART IV.

MISCELLANEOUS.

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.

Use of funds
by Board.

Offences.

22. (1) A person who contravenes or fails to comply with a provision of this Act for which no other penalty is provided is guilty of an offence punishable by a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months.

(2) Proceedings for offences against this Act may be heard and determined summarily.

Regulations.

23. The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular making provision for penalties not exceeding a fine of one hundred pounds or imprisonment for six months, or both, for offences against the regulations.

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

EDRIC BASTYAN, Governor.