



WHEAT MARKETING ACT, 1989

No. 66 of 1989

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ELIZABETHAE II REGINAE

A.D. 1989

No. 66 of 1989

An Act relating to the marketing of wheat; to repeal the Wheat Marketing Act, 1984; and for other purposes.

[Assented to 29 October 1989]

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Wheat Marketing Act, 1989*.

Commencement

2. This Act is to be taken to have come into operation on 1 July, 1989.

Interpretation

3. (1) In this Act—

“the Australian Wheat Board” or “the Board” means the Australian Wheat Board continued in existence under the Commonwealth Act:

“the Commonwealth Act” means the *Wheat Marketing Act 1989* of the Commonwealth, as amended from time to time:

“grain” has the meaning assigned to that word by the Commonwealth Act, but does not include barley or oats.

- (2) Except as otherwise provided, a word or expression defined in the Commonwealth Act has the same meaning when used in this Act.

Functions of Australian Wheat Board

4. The Australian Wheat Board has the following functions in addition to those conferred on it by the Commonwealth Act:

- (a) to trade in wheat and wheat products;
- (b) to make arrangements for the growing of wheat for the purpose of trading in wheat;
- (c) to promote, fund or undertake research into matters related to the marketing of wheat or wheat products;
- (d) to trade in grain (other than wheat) and grain products to the extent that trading in such grain or grain products will promote an object of the Board under the Commonwealth Act;

- (e) to make arrangements for the growing of grain (other than wheat) for the purposes of trading in such grain;
- and
- (f) such other functions as are conferred on the Board by a law of the State.

Powers of Board

5. (1) The Board has power to do all things that are necessary or convenient to be done in connection with the performance of its functions under this Act.

(2) Without limiting the effect of subsection (1), the Board has power to do anything in connection with the performance of its functions under this Act that it may do under section 7 of the Commonwealth Act in connection with the performance of its functions under that Act.

Directions to Board

6. (1) Subject to this section, the Commonwealth Minister may give written directions to the Board concerning the performance of its functions and the exercise of its powers under this Act, and the Board must comply with any such directions.

(2) The provisions of section 8 (2) and (3) of the Commonwealth Act apply in relation to a direction under subsection (1) as if those provisions were included in this section.

Delegation

7. The Board may, by instrument in writing, delegate any of its powers or functions under this Act to a person to whom powers or functions may be delegated under the Commonwealth Act.

Application of certain provisions of Commonwealth Act

8. The following provisions of the Commonwealth Act apply as if included in this Act:

- (a) Divisions 2 and 3 of Part 4;
- and
- (b) section 74.

Payment by Board

9. (1) Payment in good faith by the Board of any money payable under this Act to the person appearing to the Board to be entitled to receive it discharges the Board from any further liability in respect of that money.

(2) An assignment of money payable by the Board in respect of wheat purchased by the Board (not including a registered crop lien) is voidable at the instance of the Board.

(3) An assignment of money payable by the Board in respect of wheat purchased by the Board, being a registered crop lien, is voidable at the instance of the Board unless and until notice in writing of the registration of the lien has been furnished to the Board by the holder of the lien.

Wheat research deductions

10. (1) Subject to this section, a purchaser of wheat must, with the consent of the seller, deduct from the amount payable under the contract of sale, and pay to the Minister, an amount equal to the prescribed percentage of the value of the wheat.

(2) Subject to this section, the Minister must pay all money received by the Minister pursuant to this section to the Commonwealth for the purposes of the Wheat Research Trust Fund.

(3) Subsection (1) does not apply—

(a) in relation to a purchaser, or purchase, of a prescribed class;

or

(b) in relation to wheat where the amount required to be paid to the Minister under subsection (1) has been paid in relation to a previous contract for the sale of the wheat.

(4) A purchaser of wheat harvested in a season is to presume conclusively that the seller has consented to the making of payments under this section, but if the seller, by notice in writing given to the Minister during March in that season, indicates that he or she does not consent to the making of such payments in respect of wheat of that season, the Minister must pay to the seller the amount received by the Minister in respect of wheat of that season sold by the seller.

(5) Money received by the Minister pursuant to this section must, pending payment under subsection (2) or (4), be kept in a bank account established for that purpose or may be invested in such manner as the Minister thinks fit.

(6) Any amount earned through investment of money pursuant to subsection (5) must be paid to the Commonwealth for the purposes of the Wheat Research Trust Fund.

(7) Payments made by the Minister to the Commonwealth under this section must be made on the condition that the money so paid is expended in South Australia.

(8) Any amount to be paid to the Minister under this section in relation to a contract for the sale of wheat must be paid to the Minister not later than 21 days after payment, or the first payment, in respect of the wheat is made to the seller under the contract and any amount not so paid to the Minister may be recovered by the Minister, by action in a court of competent jurisdiction, as a debt due to the Minister.

(9) The Minister may establish a committee to advise the Minister on the percentage that should be prescribed for the purposes of this section for wheat of a season and on any other matter relating to the operation of this section on which the Minister may require the committee's advice.

(10) The committee is to consist of three persons appointed by the Minister after consultation with the Grain Section of the United Farmers and Stockowners of S.A. Incorporated.

(11) The members of the committee hold office at the pleasure of the Minister and may conduct proceedings of the committee in such manner as they think fit.

(12) The Minister may, by notice published in the *Gazette*—

(a) prescribe a percentage for the purposes of this section for wheat of a specified season;

(b) prescribe a class of purchasers or purchases to whom or to which this section is not to apply;

(c) prescribe the manner in which the value of wheat is to be ascertained for the purposes of this section.

(13) the Minister may, by notice published in the *Gazette*, vary or revoke a notice under subsection (12).

(14) Proper accounts must be kept of all money received or paid by the Minister under this section and those accounts may at any time and must, at least once in each year, be audited by the Auditor-General.

(15) In this section—

“prescribed” means prescribed by the Minister by notice published in the *Gazette*.

“value” of wheat means its sale value ascertained in the manner prescribed:

“the Wheat Research Trust Fund” means the fund of that name established under the *Rural Industries Research Act 1985* of the Commonwealth, as amended from time to time, or any fund established under that Act or another Act of the Commonwealth in place of that fund.

Repeal and transitional provisions

11. (1) The *Wheat Marketing Act, 1984*, is repealed.

(2) Notwithstanding subsection (1), the *Wheat Marketing Act, 1984* (other than section 21) continues in operation in relation to—

(a) wheat delivered to the Board before 1 July, 1989;

and

(b) wheat in respect of which a permit was issued, or an authorization or consent was given, under that Act.

(3) For the purposes of subsection (2), a reference in the *Wheat Marketing Act, 1984*, to the Australian Wheat Board is, in relation to anything done or to be done after 1 July, 1989, to be read as a reference to the Board as continued in existence by the Commonwealth Act.

(4) If, on the repeal of the *Wheat Marketing Act, 1984*, there is money standing to the credit of the account kept under section 22 of that Act, the money must be applied for the benefit of the wheat industry in such manner as the Commonwealth Minister, after consultation with the Grain Council, directs.

(5) A reference in any other Act to the Australian Wheat Board is, on and from the commencement of this Act, to be read as a reference to the Australian Wheat Board continued in existence under the Commonwealth Act.

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

C. L. LAUCKE, Governor's Deputy