

## TASMANIA.

## THE WHEAT ACT, 1920.

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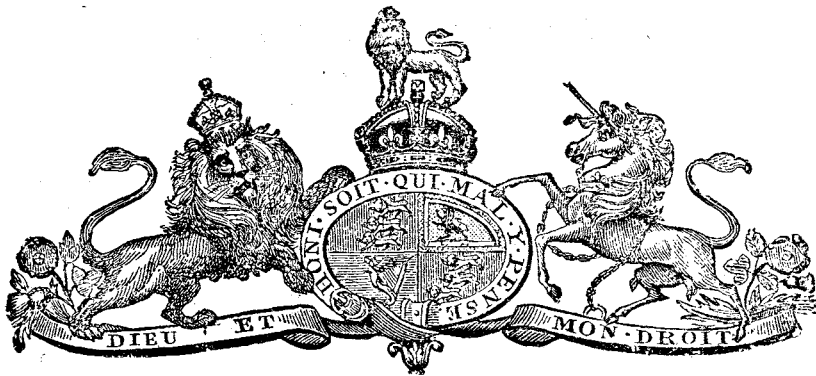
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## TASMANIA



1920.

ANNO UNDECIMO

GEORGII V. REGIS.

No. 63.

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AN ACT to confer certain Powers on the Government of Tasmania in regard to the Marketing of the Wheat Harvest of the Season 1920-21, and for other purposes.

A.D.  
1920.

[24 December, 1920.]

WHEREAS there is a shortage of wheat in Tasmania for human consumption and for seed and other purposes, and it is therefore expedient to provide for the better handling and marketing of all wheat supplies and to empower the Government of Tasmania or the Minister to control such supplies and to deal therewith for the benefit of the people of this State: And whereas it is expedient to empower the Minister to enter into agreements with the Wheat Commission of the State of Victoria or of any other State, or with any other person or persons, for the purchase and supply of such quantities of wheat as may be required for consumption in Tasmania:

PREAMBLE.  
Cf. No. 3076 of  
1920 (Vic.).

Be it therefore 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—(1) This Act may be cited as "The Wheat Act, 1920."  
(2) This Act shall come into force on a day to be fixed by proclamation of the Governor.

Short title  
Commencement.

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- A.D. 1920. **2** In this Act, unless inconsistent with the context or subject-matter—
- Interpretation.  
“ Authorised agent.” “ Authorised agent ” means any person (including firm or corporation) authorised by the Minister to take delivery of any wheat on his behalf in exercise of his powers under this Act, and also any agent, employee, or servant of an authorised agent empowered by him to act as his agent in taking such delivery, and any agent, employee, or servant of such agent :
- “ Blended wheat.” “ Blended wheat ” means wheat of the harvest of the season 1920-1921 with which has been blended or mixed any old wheat :
- “ Board.” “ Board ” means the Wheat Board appointed under this Act :
- “ Deliver to the Minister.” “ Deliver to the Minister ” means deliver or tender, or cause to be delivered or tendered, to an authorised agent for acceptance on behalf of the Minister, any wheat of which it is intended to yield possession to the Minister ; and “ deliver to the Minister ” has a corresponding meaning :
- “ Grower.” “ Grower ” means the person by whom any wheat was actually grown ; where such wheat was grown pursuant to any share-farming agreement, the term includes the parties to such agreement :
- “ Minister.” “ Minister ” means the Minister of Agriculture :
- “ Old wheat.” “ Old wheat ” means wheat harvested before the First day of September, One thousand nine hundred and twenty :
- “ Sale ” ; “ sell.” “ Sale ” includes barter and exchange, and also any transaction involving a transfer of his right of property in any wheat by one person to another ; and “ sell ” has a corresponding interpretation :
- “ Surplus wheat.” “ Surplus wheat ” means wheat of the harvest of the season 1919-1920 which has not been delivered to the Minister under the authority of this Act :
- Application of Act. **3** Save as otherwise expressly provided, this Act shall apply to wheat harvested during the season 1920-1921, wheat purchased by the Minister, surplus wheat, and old wheat, and not otherwise.

## PART II.

## GENERAL.

- Wheat Board. **4—(1)—I.** The Governor may, whenever it shall appear expedient so to do, appoint a board of Six persons, of whom Three shall be representatives of the growers of wheat, and such other Three persons as he thinks proper, and shall appoint One of them to be chairman of such board :

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- II. The board shall be called the Wheat Board, and shall, whenever the Minister shall require, advise him as to the exercise of his powers and duties under this Act, and shall exercise such other powers and duties as are prescribed. The members of such board shall be paid such remuneration as the Governor shall think fit : A. D. 1920.
- III. Any Four members of the board shall be a quorum, and shall have all the powers and authority conferred upon the board by this Act :
- IV. In case of the illness, absence, or suspension of any member of the board, the Governor may appoint a deputy to act for such member during his illness, suspension, or absence; and every such deputy shall, while so acting, have all the powers, and carry out all the duties of, such member :
- V. No member of the board shall be disqualified from being elected a member of either house of Parliament, nor shall the seat of any member of either house of Parliament be rendered vacant by reason only of such member being appointed and acting as a member of the Board, and receiving remuneration therefor.
- VI. The board shall cause minutes of its proceedings to be kept, and a copy of the minutes of any meeting from which the Minister is absent shall be forwarded to him forthwith after the close of such meeting.

(2) The Minister may appoint and may fix the remuneration of such officers and authorised agents as may be necessary for the purposes of this Act.

(3) "The Public Service Act, 1919," shall not apply to any secretary, officer, or other person employed under this Act; but where any officer or employee of the Public Service is so employed, any existing or accruing rights of any such officer or employee shall not thereby be prejudiced, but shall remain in full force and effect as if such officer or employee had continued and was in the Public Service under the control of the Public Service Commissioner.

Rights of officers preserved.

5 For the purposes of this Act the Minister may buy wheat from the Wheat Commission of the State of Victoria or of any other State, or from any other person or persons, and do all acts, matters, and things necessary or expedient in that behalf accordingly.

Powers of Minister.

6—(1) Save as herein otherwise provided, all wheat in Tasmania shall be delivered to the Minister or his authorised agents.

(2) All wheat so delivered shall be deemed to have been delivered for sale by the Minister on behalf of the owners thereof.

(3) Any person who (save as hereinafter provided) sells or delivers any wheat to, or buys the same from, any person other than the Minister, shall be liable to a penalty of not more than Five hundred Pounds; and any wheat held by such person shall forthwith become the property of the Minister.

Prohibition of sales, &c., of wheat except to Minister.

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Exemptions.

(4) The Minister may exempt (either generally or in any particular case) from the operation of this section—

- I. Sales or purchases of seed wheat by growers of wheat to or from growers of wheat for *bona fide* use by the purchasers in their farming operations :
- II. Such other sales and purchases as are prescribed.

(5) The Minister may at any time, by notification published in the "Gazette," revoke any such exemption.

Conditions relating to disposal of wheat by Minister.

7—(1) Wheat delivered to or bought by the Minister under the provisions of this Act shall be disposed of by sale within the State at such times, places, and prices, and in such manner, as the Minister shall determine.

Minister's decision as to quality of wheat, &c, to be final.

(2) For the purpose of ascertaining the price to be paid to the owners of wheat delivered to the Minister for sale, and generally for the purposes of this Act, the Minister's decision, upon the advice of the board, as to the quality of such wheat, freight, storage, dockages, and all expenditure incurred in and about the marketing of the wheat shall be final.

Storage of wheat.

(3) Pending the sale of any wheat delivered, or to be delivered, to the Minister, any person having any barn, store, or other building or place which is or can be made available for storing the same, shall, on the request of the Minister, allow such wheat, or any portion thereof, to be stored therein on payment by the Treasurer, on the recommendation of the Minister, of such storage or other charges as may be prescribed.

Issue of certificates and payment in connection with wheat delivered to Minister.

(4) Upon the delivery of any wheat to the Minister, he shall issue to the grower thereof a certificate in the prescribed form : Provided that if he has received notice of any mortgage, charge, lien, or encumbrance over, or contract relating to, such wheat, he may, in his discretion, refuse or withhold the issue of such certificate. Such certificate shall not be transferable, excepting by way of security approved by the Minister.

(5) The Minister may sell or arrange for the sale of wheat, and do all things necessary or expedient in that behalf, and may set aside, retain, reserve, and store such amount of wheat as is deemed proper for future sale as seed wheat for the ensuing season or otherwise.

(6) All moneys received by the Minister as the proceeds of sale of wheat, and also all other moneys payable to him or to the Treasurer under this Act, and all pecuniary penalties recovered under this Act, shall be paid into a special account in the Treasury; and the Treasurer shall, from time to time, apply such moneys on the recommendation of the Minister in payment of—

- I. The purchase-money of wheat purchased by the Minister under this Act : and
- II. Such advances or dividends to the growers as the Minister shall from time to time determine : and

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III. The expenses of the board and of the Minister in carrying out their respective functions under this Act. A.D. 1920.

Any moneys remaining in the hands of the Treasurer after making the payments aforesaid shall be paid into the Consolidated Revenue Fund.

**8** Any person who, without the previous written authority of the Minister, grists any wheat (whether into flour or other product of wheat) for any other person after the commencement of this Act, and before the First day of December, One thousand nine hundred and twenty-one, shall be liable to a penalty of not more than Five hundred Pounds, and any contract entered into (whether before or after the commencement of this Act) in contravention of or inconsistent with the provisions of this section shall be void and of no effect.

Wheat not to be gristed unless with previous authority of Minister.

**9**—(1) Every contract which is made in Tasmania, whether before or after the commencement of this Act, so far as it relates to the sale of Tasmanian wheat or flour, or any other product of wheat for delivery in Tasmania on or after the First day of December, One thousand nine hundred and twenty, up to but not later than the First day of December, One thousand nine hundred and twenty-one, shall, when specified by the Minister in a notification published in the "Gazette," be, and is hereby declared to be, and to have been, void and of no effect so far as such contract has not been completed by delivery before the date of such notification: Provided that for the purposes of this section any such contract shall be deemed to be severable.

Contracts for sale of wheat and flour.

(2) Any transaction or contract with respect to any wheat or flour, or other product of wheat, which is the subject-matter of any contract or part of a contract which is by this section declared to be void, shall also be void and of no effect, and any money paid in respect of any contract hereby made void or of any such transaction shall, to the extent to which the said contract is made void, be repaid.

(3) Nothing in this or the Three last preceding sections shall apply to wheat or flour, or other product of wheat, the subject of an interstate contract.

**10** Notwithstanding anything in "The Railway Management Acts" or the law relating to common carriers, or any agreement to the contrary, the Commissioner of Railways and any common carrier or other person shall, on the request of the Minister, refuse to carry any wheat or flour or other product of wheat (not the subject of an interstate contract) owned by any specified person in Tasmania from any place in Tasmania to any person in any other place in Tasmania, or, except as prescribed, to deliver any such wheat, flour, or product.

Power of Commissioner of Railways to refuse to carry certain wheat, &c.

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Remedy confined  
to claim for an  
account.Notice of lien, &c.,  
to be given.Duty of grower  
of wheat to give  
notice of encum-  
brances, &c., on  
delivery thereof.Indemnity for  
payments in good  
faith, &c.

**11** No action for damages shall be brought against the Minister or the board, or any person acting under his or its authority, by any person claiming to be entitled to any mortgage, charge, lien, bill of sale, or other encumbrance whatsoever of or upon or over any wheat or any crop from which such wheat was harvested, or claiming to be the true owner of such wheat: Provided that any person who, but for this section might have brought any such action, may adopt the delivery of such wheat to the Minister as a delivery thereof by him to the Minister, and may claim accordingly for an account of the payments due in respect thereof: Provided, further, that any such person shall not be entitled to claim as aforesaid for an account of the amount payable in respect of such wheat, or any part of such amount, unless he has given notice in writing to the Minister, in the form and containing the particulars prescribed, of such mortgage, charge, lien, bill of sale, or other encumbrance or claim of ownership, and then only for such portion of such amount as has not been paid to other persons at the time of the receipt by the Minister of such notice.

**12**—(1) Every grower of wheat which is subject to any mortgage, charge, lien, bill of sale, or encumbrance referred to in the last preceding section of this Act or in respect of which, or of the crop from which, the same was harvested, he has entered into any contract in derogation of his title to sell such wheat as the absolute owner thereof (and whether such mortgage, charge, lien, bill of sale, or encumbrance or contract was made before or after the commencement of this Act) shall, when delivering or causing to be delivered such wheat to the Minister, give to the person receiving such wheat on behalf of the Minister, a notice in writing in the prescribed form of every such mortgage, charge, lien, bill of sale, or encumbrance or contract.

(2) A notice given in respect of a delivery made to any person receiving wheat on behalf of the Minister at One railway-station or place of delivery shall not be deemed to be a compliance with this section in respect of a delivery made to any other person receiving wheat on behalf of the Minister at the same or any other railway-station or place of delivery.

(3) Any person wilfully guilty of a contravention of or failure to comply with any of the provisions of this section shall be liable to a penalty of not more than One hundred Pounds.

**13** Where the Treasurer, on the request of the Minister, in good faith has made any payments—

- I. To a grower delivering or causing to be delivered any wheat to the Minister or any person acting under the authority of the Minister: or
- II. To any person entitled or claiming to be entitled through such grower: or
- III. On the order of such grower or lastmentioned person—



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neither the Treasurer nor the Minister shall be answerable to any other person in respect of such payment in respect of such wheat, or for any part thereof, or in any action, claim, or demand for damages or otherwise.

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**14** Old wheat or blended wheat shall be delivered to the Minister in accordance with the following provisions, but not otherwise:—

As to delivery of old or blended wheat.

- I. Delivery as aforesaid of such wheat may be made only to an authorised agent who is also a flourmiller :
- II. Every bag of such wheat shall be clearly branded on both sides—
  - (a) In the case of old wheat—with a brand being a circle of not less than Two inches and not more than Four inches in diameter ; and
  - (b) In the case of blended wheat—with a brand being Two circles as aforesaid in contact or with no greater space between them than Two inches : and

Brands.

- III. When tendering such wheat to such authorised agent the person tendering the same shall give notice in writing to such agent that he tenders the same as old wheat or (as the case may be) as blended wheat, according as the bags are branded, and shall specify the number of bags of each brand tendered, and the name of the person for whose account the tender is made.

Notice to agent as to kind of wheat, &amp;c.

Provided that if such agent is of opinion that such wheat or any proportion thereof is affected with weevil he may refuse to accept delivery of the same.

Power to refuse to take delivery of weevil-infested wheat.

(3) An employee of, or a carrier, teamster, or other person contracting with, another person (whether for reward or not) to deliver to the Minister any wheat as wheat of the season 1920-1921, who in good faith and in compliance with the instructions of such last-mentioned person delivers old wheat or blended wheat as wheat of the season 1920-1921, shall not be deemed guilty of a contravention of this section.

Delivery by employee, &amp;c., in good faith.

(4) Every person who in contravention of this section, and whether by himself or by any other person, delivers on his own account or on account of any other person, any wheat, shall be liable to a penalty of not more than One hundred Pounds.

Penalties.

**15** All wheat delivered to the Minister before the First day of December, One thousand nine hundred and twenty-one, shall, if the bags containing the same are not branded as provided in this Act, be deemed to have been delivered or tendered for delivery as wheat of the season 1920-1921.

Unbranded wheat deemed to be delivered, &amp;c., as wheat of season 1920-1921.

**16** The tendering of wheat by a vendor (whether by himself or by any other person authorised by him) to an authorised agent for acceptance of delivery by him, shall be *prima facie* evidence of an intention to deliver the tendered wheat to the Minister, to be by him disposed of in accordance with the provisions of this Act.

Tender to be evidence of intention to deliver under Act.

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Delivery to be  
in name of  
grower.Prices of wheat  
products may be  
fixed.Minister may take  
imported wheat,  
&c.Fair average  
quality wheat not  
to be refused.

Returns.

Penalties for con-  
travention of Act.

**17** All wheat delivered to the Minister after this Act comes into force shall be delivered in the name of the grower of such wheat.

Any person failing to comply with this section shall be liable to a penalty not exceeding One hundred Pounds.

**18** Upon the sale by the Minister of any wheat delivered to him or purchased by him under this Act, he may, upon the advice of the board, impose such conditions or terms upon the purchaser thereof as he thinks fit, and whether as to the price or times at which such wheat or any flour or other product thereof may be sold, or as to any other matter whatsoever relating to the sale, gristing, or otherwise dealing with such wheat, flour, or other product.

Any person failing to comply with any such condition or term shall be guilty of an offence against this Act.

**19** The Minister shall be empowered to take over and acquire any wheat, flour, or other product of wheat imported into the State of Tasmania, which, in the opinion of the board, it is expedient to acquire.

**20** The Minister shall not refuse to accept from any grower any wheat of fair average quality (not being old wheat or blended wheat), provided that such wheat is delivered in accordance with this Act.

**21**—(1) The Minister may, from time to time, by notice in the "Gazette," require holders of wheat, or of any product thereof, to furnish returns in the form specified in such notice showing the quantity of wheat or of any or all products thereof held at any time specified in such notice, and setting forth such other particulars (if any) as may be specified therein.

(2) Any person who fails to comply with any of the requirements of such notice, or who wilfully furnishes any false or misleading return, shall be guilty of an offence against this Act.

## PART III.

## SUPPLEMENTARY.

**22**—(1) Every person who does not do anything directed to be done or does anything forbidden to be done by or under this Act shall be guilty of an offence against this Act.

(2) Every person guilty of an offence against this Act shall—

i. Be liable to the penalty expressly provided therefor: and

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ii. If no other penalty is expressly provided, be liable— A.D. 1920

- (a) For a First offence, to a penalty of not more than Two hundred Pounds;
- (b) For a Second offence, to a penalty of not less than Ten Pounds nor more than Three hundred and fifty Pounds; and
- (c) For a Third or any subsequent offence to a penalty of not less than Fifty Pounds nor more than Five hundred Pounds—

or in case of a corporation shall be liable for a First offence to a penalty of not less than Twenty-five Pounds nor more than One thousand Pounds; and for a Second offence, to a penalty of not less than Fifty Pounds nor more than Two thousand Pounds; and for a Third or any subsequent offence, to a penalty of not less than One hundred Pounds nor more than Three thousand Pounds.

(3) If Two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty provided by this Act, and the liability of each of them shall be independent of the liability of the others.

(4) Where a person convicted of any offence under this Act is a corporation, the chairman and every managing director, and every officer concerned in the management of the corporation, shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

**23**—(1) All penalties under this Act may be recovered in summary proceedings before a police magistrate.

(2) The following provisions shall apply with respect to such proceedings:—

- i. Any complaint may be laid by any officer employed by the Minister under this Act who is thereto authorised in writing, either generally or specially by the Minister:
- ii. Every complaint shall be laid within One year after the contravention alleged:
- iii. Any number of contraventions of any One provision of this Act may be included in One complaint, and the defendant may be convicted of any One or more of such contraventions and acquitted of the other or others:
- iv. If a defendant is convicted of more than One contravention of this Act, and whether he is or is not acquitted of any other contravention alleged in the complaint, the court may impose a penalty in respect of each contravention of which he is convicted, and may make One order against the defendant for payment of the whole of any pecuniary penalties as One penalty:

Penalties, how recoverable.

Procedure on information for penalties.

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- v. If the court has acquitted the defendant of any contravention charged in any complaint, but has convicted him of any other contravention charged therein, it may make such order as to costs in respect of the proceedings in so far as they relate to the contravention in which there has been an acquittal as it deems just :
- vi. Every complaint shall be sufficient in form which alleges that the defendant committed a contravention of this Act, and which sets out particulars of the contravention or contraventions alleged in sufficient detail to acquaint the defendant with the particular matter or matters he is called upon to answer :
- vii. Every summons on a complaint shall be served at least Twenty-one days before the return day :
- viii. A defendant to a complaint may apply to a police magistrate within Seven days of the day of service of a summons for an order directing the complainant to file with the clerk of petty sessions within Seven days of the service of the order such further and fuller particulars as such police magistrate deems proper, and the police magistrate may make such order accordingly.

Application of penalties, &amp;c.

(3) All pecuniary penalties and all other moneys recovered under this Act shall be paid to the Treasurer to be applied by him under Section Seven.

Accounts to be kept.

**24**—(1) The board shall cause a book or books to be provided and kept, and true and regular accounts to be entered therein of all the meetings and proceedings of the board. The Treasurer shall keep true and regular accounts of all moneys received and paid under this Act, and of the several purposes for which the same have been received and paid.

Accounts to be audited by Auditor-General. 9 Geo. V. No. 3.

(2) The accounts of all moneys received and paid under this Act shall be audited by the Auditor-General, who shall have, with respect to such accounts, all the powers conferred on him by "The Audit Act, 1918."

Accounts to be furnished.

(3) The Treasurer shall furnish to the Governor in Council a true copy of the accounts so audited as aforesaid, together with a particular statement of the moneys received under this Act, and of the expenditure thereof.

Statement, &amp;c., to be laid before Parliament.

(4) Copies of such accounts and of such statement shall be laid before both Houses of Parliament if then sitting, or if not then sitting, at the next ensuing session thereof.

Balance of moneys required to be subsequently appropriated by Parliament for the purpose.

**25** All moneys required for carrying this Act into full execution shall, so far as the same are not provided for under or pursuant to this Act, be defrayed out of moneys to be hereafter appropriated by Parliament for the purpose.

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**26** No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever (save as is in this Act expressly provided) against His Majesty, or the Minister, or the Treasurer, or the board, or any officer or person acting in the execution of this Act, for or in respect of any damage or loss or injury sustained or alleged to be sustained by reason of the passing of this Act, or of its operation, or of anything done or purporting to be done thereunder.

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—  
Freedom of  
officers, &c., from  
liability.

**27** The Governor in Council may make regulations for—

Power to make  
regulations.

- I. The purchase or sale, or arrangements for the purchase or sale of—
  - (a) Surplus wheat; and
  - (b) Wheat harvested during the season 1920-1921 :
- II. The allocation or distribution of the proceeds of the sale of any such wheat as aforesaid, and the allocation of the expenses of carrying this Act into execution :
- III. Prescribing the duties of agents, officers, servants, and other persons appointed or authorised by the Minister pursuant to this Act :
- IV. Prescribing forms which may be used under this Act :
- V. All matters required or permitted by this Act to be prescribed : and
- VI. Generally, all matters and things necessary or convenient to be prescribed for carrying out the provisions and the purposes of this Act.

