

WHEAT DELIVERY QUOTAS.

No. 114 of 1969.

AN ACT to make provision for the Establishment of a Quota Scheme with respect to the Delivery and Marketing of Wheat, to modify the operation of the Wheat Industry Stabilization Act, 1968, and the Bulk Handling Act, 1967, and for incidental and other purposes.

[Assented to 28th November, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Wheat Delivery Quotas Act, 1969.*

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

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

PART I.—PRELIMINARY.

PART II.—DETERMINATION OF WHEAT DELIVERY QUOTAS.

PART III.—MODIFICATION OF OPERATION OF WHEAT INDUSTRY STABILIZATION ACT, 1968.

PART IV.—MODIFICATION OF OPERATION OF BULK HANDLING ACT, 1967.

4. (1) In this Act unless the contrary intention appears— Interpreta-
tion.

“Australian wheat quota” means the quantity of wheat grown in Australia which the Commonwealth Minister for Primary Industry and the Ministers of Agriculture of all the States agree, after consultation with the Australian Wheat Growers Federation, to be the Australian wheat quota for a particular season;

“Committee” means the Wheat Quotas Committee constituted under section 7 of this Act;

“non-quota wheat” means wheat which is produced by a person who does not hold a grower’s delivery quota for the season in which the wheat is produced;

“over-quota wheat” means wheat grown by a person which is in excess of the quantity specified in the quota allocated to that person for the season in which the wheat is grown;

“person” includes any company, firm, partnership, association, organization or other body of persons corporate or unincorporate;

“quota” means a wheat delivery quota granted to a person by the Committee pursuant to section 14 of this Act;

“supplementary quota” means a supplementary wheat delivery quota granted to a person by the Committee under section 16 of this Act;

“the Company” means the company incorporated under the name of Co-operative Bulk Handling Limited, referred to in section 5 of the Bulk Handling Act, 1967;

“the State Act” means the Wheat Industry Stabilization Act, 1968;

“the State quota” in relation to a season, means such portion of the Australian wheat quota as is determined in accordance with section 5 of this Act to be the quantity of wheat which may be delivered to licensed receivers of the Board in this State as quota wheat of that season.

(2) For the purposes of interpretation—

- (a) Parts I, II and III of this Act shall be read as one with the State Act; and
- (b) Part IV of this Act shall be read as one with the Bulk Handling Act, 1967.

Quota
seasons
and
State quotas.

5. (1) For the purposes of this Act, the season commencing on the first day of October, nineteen hundred and sixty-nine, and each subsequent season, not being a season in respect of which a proclamation is made under subsection (2) of this section, is a quota season.

(2) The Governor may, by proclamation published in the *Gazette* on or before the first day of April in any year, declare that the season commencing on the next following first day of October is not a quota season for the purpose of this Act.

(3) For the purposes of this Act, the quantity of the Western Australian Wheat Quota shall be—

- (a) for the season commencing on the first day of October, 1969—eighty-six million bushels; and
- (b) for any subsequent season—such quantity as is determined by the Governor on the recommendation of the Minister, which recommendation shall be made by the Minister after consultation with The Farmers' Union of Western Australia (Inc.).

PART II.—DETERMINATION OF WHEAT DELIVERY QUOTAS.

6. The Minister shall, before giving any direction under subsection (2) of section 14, subsection (1) of section 16 or subsection (6) of section 17 of this Act, consult with The Farmers' Union of Western Australia (Inc.) on any matter with respect to which he proposes to give such a direction.

Minister to consult with The Farmers' Union of W.A. before giving certain directions.

7. (1) For the purposes of this Act there shall be a Wheat Quotas Committee which shall have the functions, powers and duties conferred or imposed upon it by this Act.

Wheat Quotas Committee.

(2) The Committee shall consist of three members appointed by the Minister, and the Minister shall appoint one of the members to be Chairman of the Committee.

(3) Each member of the Committee shall hold office, subject to this Act, for a term of one year and is eligible for re-appointment.

(4) The members of the Wheat Quotas Committee appointed by the Minister prior to the coming into operation of this Act shall be deemed to have

been appointed under this Act and are entitled to hold office, subject to this Act, until the thirty-first day of January, nineteen hundred and seventy.

(5) The Minister may at any time revoke the appointment of any member of the Committee.

(6) The Minister may appoint a deputy for any member of the Committee and any deputy so appointed has, at any meeting of the Committee at which the member, for whom he is the deputy, is not present, all the functions, powers and duties of that member.

Vacation of
office and
casual
vacancies.

8. (1) The office of any member of the Committee becomes vacant—

- (a) at the expiry of his term of office;
- (b) if he dies;
- (c) if he becomes incapable of continuing as a member;
- (d) if, without having obtained the permission of the Minister, he is absent from three consecutive meetings of the Committee;
- (e) if he resigns by writing under his hand addressed to the Minister; or
- (f) if his appointment is revoked by the Minister.

(2) Where the office of a member becomes vacant otherwise than by retirement at the expiration of his term of office, the Minister may appoint a person to fill the vacancy and the person so appointed is entitled to hold office, subject to this Act, for the remainder of the term of the person to whose place he is appointed.

9. (1) At any meeting of the Committee—
- (a) two members constitute a quorum;
 - (b) the Chairman, or the person appointed to be his deputy, shall preside;
 - (c) all questions shall be decided by a majority of the members present and voting;
 - (d) in the event of an equality of votes being cast on any question, that question shall remain unresolved, but may be reconsidered at any subsequent meeting of the Committee.

Proceedings
of the
Committee.

(2) No member of the Committee shall at any time exercise his vote in respect of any matter affecting a quota with respect to which he has, either directly or indirectly, a pecuniary interest, and a member holding such an interest shall divulge it to the Committee and leave the meeting during the discussion relating to that quota.

(3) The Committee shall cause minutes of its proceedings to be kept in such manner as the Minister approves.

10. The members of the Committee and their deputies are entitled to receive such allowances, fees and expenses as are from time to time approved by the Minister.

Fees,
allowances,
etc., of
members of
Committee.

11. All expenses, including any allowances and fees, incurred by or on behalf of the Committee in connection with the administration of this Part shall be paid by the Company.

Costs of
administra-
tion of this
Part.

12. (1) The Committee shall, with respect to each quota season, fix a date as the date on or before which applications for quotas for that quota season may be made, and the Chairman of the Committee—

Notice
inviting
applications
for quotas.

- (a) shall cause notice of the date so fixed to be published on at least one occasion not more than two months, nor less than one month; before that date, in a newspaper circulating in the State; and

- (b) may cause such other public notice, as the Committee thinks fit, to be given to the fixing of that date.

(2) Any notice published pursuant to paragraph (a) of subsection (1) of this section shall contain directions as to the manner in which applications may be made, and the information that is to be submitted with each application.

Applications
for quotas.

13. (1) Any person may, by application served on the Committee, apply for the grant to him of a quota in respect of a quota season.

(2) Subject to subparagraph (ii) of paragraph (c) of this subsection, an application made under this section shall not be considered by the Committee unless—

- (a) the application is made in accordance, or substantially in accordance, with the directions contained in the notice published in relation to that quota season pursuant to paragraph (a) of subsection (1) of section 12 of this Act;
- (b) it is accompanied by a statutory declaration verifying all statements and matters set out in, or submitted with, the application; and
- (c) it is received by the Committee—
 - (i) on or before the date fixed for the making of applications with respect to that quota season pursuant to subsection (1) of section 12 of this Act; or
 - (ii) after that date but in such circumstances as satisfy the Committee that it would be unreasonable not to consider the application.

14. (1) The Committee shall, subject to subsection (2) of section 13 of this Act, consider every application made under that section for a quota in respect of a quota season, and may, subject to the succeeding provisions of this section—

Issue of
quotas.

- (a) grant to the applicant a wheat delivery quota in respect of that quota season; or
- (b) refuse the application,

and shall in either event serve or cause to be served upon the applicant a certificate or other document specifying the quota so granted or notice in writing of its decision to refuse to grant a quota, as the case may be.

(2) The Committee shall comply with any direction, not inconsistent with this Act, given to it in writing by the Minister with respect to the principles to be adopted by the Committee in exercising its powers under subsection (1) of this section.

(3) A quota shall not be granted to a person unless—

- (a) he is the owner or lessee of the land to which the quota is to be attached; or
- (b) he satisfies the Committee that his interest in the land to which the quota is to be attached is such that the grant to him of a quota would be fair and reasonable.

(4) Without limiting the operation of paragraph (b) of subsection (3) of this section, the Committee may grant a quota to a cropping lessee under an agreement for a cropping lease that was entered into on or before the first day of April, nineteen hundred and sixty-nine, but where the Committee grants such a quota it shall deduct from the quota, if any, that would otherwise have been granted to the lessor, the quantity specified in the quota so granted to the cropping lessee.

Company
to advise
Minister of
quota wheat
delivered.

15. The Company shall, not later than the first day of February in each year, advise the Minister in writing of the amount, if any, by which the deliveries of quota wheat for the quota season then current appear to the Company to be likely to be less than the State quota for that season.

Supple-
mentary
wheat
quotas.

16. (1) Where the Minister has received the advice of the Company under section 15 of this Act with respect to a quota season, he may direct the Committee to allocate supplementary wheat delivery quotas to persons whose deliveries for that season exceed their quotas allocated for that season, and thereupon the Committee shall proceed with the allocation of supplementary quotas in the manner directed by the Minister.

(2) Where, in a quota season, a person has—

- (a) delivered over-quota wheat to any licensed receiver of the Board; and
- (b) been allocated a supplementary quota by the Committee pursuant to this section,

the over-quota wheat delivered by him, to the extent that it does not exceed the quantity specified in the supplementary delivery quota allocated to him for that season under this section, shall become quota wheat for that season, but in granting a quota in the following season to that person or to any other person to whom the quota of that firstmentioned person has been transferred, the Committee shall deduct from the quota which that person would otherwise have received for that following season, an amount equal to the quantity of over-quota wheat delivered by that grower in the previous season that was treated, pursuant to this section, as quota wheat of that previous season.

(3) Where the amount of over-quota wheat that was delivered by a person during a particular season and treated as quota wheat of that season pursuant to this section, exceeds the quota allocated to that person for the next season, the amount by which the

over-quota wheat so treated exceeds the quota granted to that person for that second-mentioned season shall be deducted by the Committee from the quota or quotas allocated to that person for the season or seasons successively occurring after that second-mentioned season, until all that amount of the over-quota wheat so treated has been set off against quotas granted to that person for those successive seasons, or if that person has no quota for all or any of those successive seasons, against quotas allocated to any other person in respect of the land on which that over-quota wheat was grown.

17. (1) Where the holder of a quota for a season failed to deliver the full quantity of wheat specified in that quota, he may apply to the Committee to have the amount by which his delivery of wheat fell short of the quantity so specified added to his quota for the next season.

Shortfalls
may be
carried
forward.

(2) Every application under this section shall be made in writing to the Committee not later than the day appointed by the Committee in any particular year for the purpose and shall be in, or substantially in, the form approved by the Committee.

(3) The Committee shall consider every application made to it in accordance with the preceding provisions of this section and may, subject to subsection (6) of this section, determine that the applicant shall have added to his quota for the season next succeeding that in which his delivery of wheat fell short of the quantity specified in his quota—

- (a) the whole of the amount by which his wheat delivery in the last preceding season fell short of the quantity specified in his quota for that last preceding season; or
- (b) such part of the amount referred to in paragraph (a) of this subsection as the Committee determines.

(4) Where the amount added to the quota of a person for a season under subsection (3) of this section is part only of the amount by which the wheat delivery of that person in the last preceding season fell short of the quantity specified in his quota for that last preceding season, that person may, from time to time apply to the Committee to have the difference between those two last-mentioned amounts or part thereof added to his quota for any succeeding quota season and may continue to make applications under this subsection until the whole of the amount by which his wheat delivery so fell short has been added to his quota for the next or succeeding seasons pursuant to subsections (3) and (5) of this section.

(5) The Committee shall consider every application made to it in accordance with subsection (4) of this section and may determine that a person who makes an application under that subsection shall have added to his quota for a quota season the whole or any part of an amount with respect to which the person has made a valid application under that subsection.

(6) The Committee shall comply with any direction given to it in writing by the Minister as to the principles to be adopted by it in exercising its powers under subsections (3) and (5) of this section.

(7) Where, pursuant to the provisions of subsection (3) or subsection (5) of this section, an amount is added to the quota granted to a person for a quota season, any wheat delivered to the Board by that person during that season shall be credited—

- (a) firstly, in satisfaction of the amount so added to his quota; and
- (b) secondly, in satisfaction of his quota for that season,

so that all wheat so credited shall be regarded as quota wheat for the purposes of this Act and only wheat which exceeds the aggregate of that amount and that quota shall be regarded as over-quota wheat for the purposes of this Act.

(8) For the purposes of subsection (1) of this section, the quantity of wheat specified in a quota for a season includes any amount added to that quota under the provisions of subsection (3) or subsection (5) of this section.

18. (1) Subject to paragraph (a) of section 31 of this Act, no person shall be entitled to deliver wheat of a quota season to the Company or to any other licensed receiver of the Board unless he is the holder of a quota or supplementary quota for that season.

Deliveries
of wheat
during quota
seasons.

(2) Subject to the provisions of section 42 of the Bulk Handling Act, 1967, a quota or supplementary quota entitles the holder thereof to deliver to the Company or any other licensed receiver of the Board in this State wheat of a season up to the quantity specified in the quota or supplementary quota or the total of the quantities specified in the quota and any supplementary quota, allocated to him in respect of that season.

19. (1) Where over-quota wheat grown by the holder of a quota for a particular season is accepted by the Board during that season, that over-quota wheat shall be treated as wheat accepted as the whole or part of the quota allocated to that holder for the next season, or, if that holder has no quota for the next season, as the whole or part of the quota allocated to any other person in respect of the land on which the wheat was grown.

Over-quota
wheat.

(2) Where the amount of over-quota wheat grown by the holder of a quota for a particular season and accepted by the Board during that season exceeds the quota allocated to the holder for the next season, the amount by which the over-quota wheat exceeds the quota granted to the holder for that second-mentioned season shall be treated as wheat accepted as the whole or part of the quota or quotas allocated to that holder for the season or seasons successively occurring after that second-mentioned season, until all that amount of over-quota wheat has been

credited against quotas granted to that holder for those successive seasons, or if that holder has no quota for all or any of those successive seasons against quotas allocated to any other person in respect of the land on which that over-quota wheat was grown.

(3) The provisions of this section do not apply with respect to any over-quota wheat of a season that is treated as quota wheat of that season pursuant to subsection (2) of section 16 of this Act.

Incidents and transfers of quotas and supplementary quotas.

20. A quota or supplementary quota attaches both to the person to whom it is granted and the land with respect to which it is granted, but a quota or supplementary quota may, subject to subsection (3) of section 14 of this Act and with the prior approval in writing of the Committee, be transferred from one person to another.

Reconsideration of applications for quotas and revision of quotas based on incorrect calculations, etc.

21. (1) Where a person who applied for a quota considers that the Committee erred in considering his application for a quota or failed to give due consideration to any special circumstances that he considers were relevant, he may apply in writing to the Committee, within one month after receiving the certificate or other document specifying the quota or the notice of the Committee's decision to grant a quota, for the reconsideration by the Committee of its decision and shall set out in his application the reasons on which he bases his application for reconsideration.

(2) The Committee shall consider every application made to it by a person under subsection (1) of this section and the reasons set out in the application and if it is satisfied that, in determining the quota granted to that person, it erred or failed to give due consideration to any special circumstances relevant to the application for that quota, it shall issue a quota or revised quota to that person and thereupon the quota first granted, if any, to the person by the Committee shall cease to have effect for the purposes of this Act.

(3) Without affecting the provisions of subsections (1) and (2) of this section, where the Committee is satisfied that, in consequence of any error in calculation or any erroneous or misleading document or statement, a quota or supplementary quota granted by the Committee ought to be revised so as to specify a greater quantity of wheat than that specified in that quota, the Committee shall, notwithstanding that no application has been made to it under subsection (1) of this section, grant a revised quota or supplementary quota specifying that greater quantity in place of that first-mentioned quota or supplementary quota.

22. (1) The Committee may—

- (a) obtain any information it considers necessary or expedient for exercising its powers and performing its duties under this Act;
- (b) obtain assistance or advice from any person or organisation;
- (c) obtain from the Company any information or any document or writing in the custody of the Company or its agents which in the opinion of the Committee is material for exercising its powers and performing its duties under this Act; and
- (d) inspect any wheat farm either by the members of the Committee or by any person specifically authorized in that behalf by the Chairman of the Committee.

Committee
may obtain
information,
etc.

(2) The Committee shall furnish the Minister with such advice, reports, and information concerning quotas and supplementary quotas as the Minister requires from time to time.

23. Subject to section 21 of this Act, any decision of the Committee made under this Act is final and not subject to any appeal.

Decisions
of the
Committee
not subject
to appeal.

Proceedings.

24. (1) All matters to be considered by the Committee shall, unless otherwise determined by the Committee, be submitted in writing to the Committee and no person shall be entitled to appear personally or by counsel before the Committee.

(2) All decisions of the Committee regarding the allocation or transfers of quotas and supplementary quotas shall be notified in writing to the Company and the Board.

Cancellation,
etc., of
quota.

25. (1) Where the Committee is satisfied that the holder of a quota or supplementary quota—

(a) has been allocated the quota or supplementary quota erroneously or as a result of any false or misleading statement or representation; or

(b) is withholding information or has provided false information concerning a quota or supplementary quota,

the Committee may by notice in writing advise the person specified in the notice that on a day, being not less than fourteen days from the day of sending the notice, that the Committee intends for reasons stated in the notice to consider whether or not that quota or supplementary quota should be cancelled or reduced to a quantity specified in the notice and that if he so desires he may submit reasons in writing opposing the proposed cancellation or reduction.

(2) On the day specified in the notice, or on any later day to which the matter is adjourned by the Committee, the Committee shall decide, after considering all objections, whether or not to cancel or reduce that quota or supplementary quota.

Protection
against
actions, etc.

26. No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person against—

(a) Her Majesty;

- (b) the State;
- (c) the Minister;
- (d) the Company;
- (e) the Committee; or
- (f) any member or officer of the Company or the Committee,

with respect to anything done for the purpose of carrying out or giving effect to the provisions or objects of this Part or Part IV of this Act.

27. The Wheat Quotas Committee constituted before the commencement of this Act and the members thereof holding office at the commencement of this Act shall be deemed to have been constituted or appointed under this Act and subject to this Act shall continue in office under this Act and all determinations, grants, allocations, decisions, and actions taken prior to the commencement of this Act with respect to the allocation or granting of quotas, the notification thereof, and the submission and consideration of applications for quotas shall be deemed to have been taken under and in accordance with this Act and all fees, allowances and expenses paid to the members of the Committee shall be deemed to have been properly paid.

Validation
of previous
actions, etc.

28. (1) Except with the prior written approval of the Committee no person—

Offences.

- (a) shall deliver or attempt to deliver or cause or suffer to be delivered to the Company or to any other licensed receiver of the Board in this State in the name of the holder of a quota or supplementary quota any wheat which was not grown by the holder of that quota or supplementary quota;
- (b) who is the holder of a quota or supplementary quota shall enter into any arrangement with or permit another person to

deliver to the Company or to any other licensed receiver of the Board in this State in the name of the holder of a quota or supplementary quota wheat which was not grown by that holder; or

- (c) shall transfer or otherwise dispose of a quota or supplementary quota.

Penalty: \$1,000.

(2) Where any person who is convicted for an offence against subsection (1) of this section is the holder of a quota or supplementary quota the Committee may thereupon cancel the quota or supplementary quota.

Regulations.

29. The Governor may make regulations not inconsistent with this Part prescribing all matters that are necessary or convenient for giving effect to this Part.

PART III.—MODIFICATION OF OPERATION OF WHEAT INDUSTRY STABILIZATION ACT, 1968.

Modification of operation of Wheat Industry Stabilization Act, 1968.

30. (1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, section 15 of the State Act has effect as if references in that section to wheat of a season were references to wheat included in the pool for that season in accordance with this section.

(2) The pool for a quota season, in this subsection referred to as the relevant season, consists of the following wheat delivered to the Board, whether in pursuance of the State Act or of a law of the Commonwealth or of another State—

- (a) wheat, whether of the relevant season or of an earlier quota season, delivered during the relevant season or an earlier quota season and appearing from the records of the Board to be the whole or a part of a

quota that is applicable in relation to a person in respect of the relevant season under this Act or a law of another State providing for the fixing of wheat quotas;

- (b) any other wheat, being wheat of the relevant season, that is delivered to the Board during the relevant season and declared by the Board to have been sold by the Board, and paid for in full, during the relevant season; and
- (c) any other wheat, being wheat of an earlier quota season, that—
 - (i) was delivered to the Board before the relevant season;
 - (ii) was not included in the pool for a season before the relevant season; and
 - (iii) is declared by the Board to have been sold by the Board, and paid for in full, during the relevant season.

(3) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat delivered to the Board, whether in pursuance of the State Act or of a law of the Commonwealth or of another State—

- (a) wheat of that season; and
- (b) wheat of an earlier season, being a quota season, that was not included in the pool for an earlier season.

(4) The Board may, in such manner as it considers equitable, attribute sales of wheat referred to in a declaration under paragraph (b) or (c) of subsection (2) of this section, being wheat of a particular kind, to all or any of the wheat of that particular kind delivered by particular persons.

PART IV.—MODIFICATION OF OPERATION OF BULK
HANDLING ACT, 1967.

Modification
of operation
of Bulk
Handling
Act, 1967.

31. Notwithstanding anything to the contrary contained in the provisions of the Bulk Handling Act, 1967—

- (a) the Company shall not receive non-quota wheat except with the consent in writing of the Minister; and
 - (b) the Company may refuse to receive any grain, other than quota wheat, tendered to it during a quota season if it considers it necessary or desirable so to do in order to ensure that it will be able to receive all quota wheat of that season or of any subsequent quota season that is tendered to it.
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