

WHEAT INDUSTRY STABILISATION.

12° and 13° GEO. VI., No. LXXV.

No. 75 of 1948.

AN ACT relating to the Stabilisation of the Wheat Industry and for other purposes.

[Assented to 21st January, 1949.]

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

1. (1) This Act may be cited as the *Wheat Industry Stabilisation Act, 1948.*

Short title
and com-
mencement.

(2) Subject to the provisions of the next succeeding subsection, this Act shall be deemed to have come into operation on the day on which the Commonwealth Act received the Royal Assent.

(3) An act or omission which occurred before the date on which this Act received the Royal Assent shall not be deemed to be an offence against this Act.

Construction.

2. (1) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State the intention being that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

(2) Where there is any conflict or inconsistency between the provisions of the Wheat Marketing Act, 1947, and those of this Act, the latter shall prevail.

Interpretation.

3. In this Act, unless inconsistent with the context or subject matter—

“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 Commonwealth Act” means the Wheat Industry Stabilisation Act, 1948, of the Commonwealth of Australia and, if that Act is amended, includes that Act as amended from time to time;

“the Board” means the Australian Wheat Board constituted by the Commonwealth Act;

“the guaranteed price” in relation to wheat of any season, means the guaranteed price in relation to wheat of that season ascertained in accordance with the Commonwealth Act;

“the State Board” means “The Western Australian Agency Board of the Australian Wheat Board” constituted pursuant to the provisions of the next succeeding section.

The Western
Australian
Agency Board
of the
Australian
Wheat Board.

4. (1) There shall be a State Board by the name, “The Western Australian Agency Board of the Australian Wheat Board”.

(2) The State Board shall consist of seven persons appointed to the office of member of the State Board by the Governor.

Board to consist of six persons.

(3) Of the seven persons—

Nomination and selection

- (a) three shall be selected by the Minister from persons who are wheat growers and are nominated for the purpose by The Farmers' Union of Western Australia (Inc.) and shall represent the interests of wheat growers;
- (b) two shall be the persons occupying for the time being each of the offices of Chairman of Directors and of Manager of Co-operative Bulk Handling Limited and shall represent the interests of the licensed receivers;
- (c) one shall be selected by the Minister from a panel of three names submitted by the W.A. Flour Millowners' Association.
- (d) one shall be a person nominated by the Commissioner of Railways constituted pursuant to the provisions of the Government Railways Act, 1904-1947, and shall represent the interests of the Commissioner of Railways.

(4) If for any reason, a person is not nominated pursuant to the provisions of paragraphs (a), (c) or (d) of the last preceding subsection, or having been so nominated and appointed does not take office, the Governor may appoint to that office a person to represent the appropriate interests concerned.

Power to appoint on failure of nomination, etc.

(5) Subject to the provisions of this Act, a person appointed to the office of member of the State Board shall hold that office for such term being of not less duration than three years as the Governor shall determine at the time of the person's appointment, and upon expiration of any term of appointment shall be eligible for re-appointment.

Tenure of office.

(6) Subject to the provisions of this Act, the office of member of the State Board shall become vacant by reason of the occupant—

Circumstances in which office becomes vacant.

- (a) becoming of unsound mind, or being declared, under the provisions of any law for the time being relating to mental infirmity, incapable of managing his affairs;
- (b) becoming bankrupt, or availing himself as a debtor of any law for the relief of bankrupt debtors;
- (c) resigning or dying;
- (d) ceasing, in the opinion of the Minister, to represent the interests which he is appointed to represent;
- (e) being removed from office on the ground of misbehaviour or incapacity.

Appointment
to fill
vacancy.

(7) When any of the offices of member of the State Board becomes vacant, otherwise than by expiration of the term for which the occupant was appointed, the Governor may appoint to the vacant office, a person to represent the appropriate interests concerned for the remainder of that term, and at the expiration of that remainder that person shall be eligible, subject to the provisions of this Act, for re-appointment.

Deputies.

(8) The Governor may appoint a person nominated by a member of the State Board and approved by the Minister or, if a person is not so nominated, a person nominated by the Minister to act in the place of the member as his deputy during his absence.

Validity of
functions of
deputies, etc.

(9) No appointment of, and no act, matter or thing done by any person as a deputy for any member of the State Board or of or by any person to fill any vacancy in any of the offices of member of the State Board shall be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

Part time
duties and
remuneration,
etc.

(10) In respect of the office of member of the State Board no occupant shall be required to devote the whole of his time and attention to the duties of the office but such time only as shall be necessary efficiently to discharge those duties, and whether as member of the State Board or a deputy or a person appointed to fill a vacancy, shall be entitled to such remuneration, allowances and leave of absence as shall be determined by the Governor.

(11) The Minister shall appoint from the members of the State Board, the chairman of the State Board and a deputy chairman to act in the place of the chairman during his absence.

Minister to appoint chairman and his deputy.

(12) At any meeting of the State Board the resolution of a majority shall be the resolution of the State Board.

Majority resolutions.

(13) Four members of the State Board shall form a quorum and shall have all the powers and duties conferred upon the State Board by the provisions of this Act.

Quorum.

(14) The convention of meetings and conduct of proceedings of the State Board shall be as prescribed and until prescribed shall be regulated by the State Board:

Convention of meetings and conduct of proceedings

Provided that each member of the State Board shall be entitled to one vote only.

(15) The State Board shall keep a record of its meetings and proceedings.

Records to be kept.

5. (1) For the purposes of the Commonwealth Act, the State Board may, from time to time as occasion requires, nominate one of its members, being a wheat grower for appointment by the Minister administering the Commonwealth Act as a member of the Board representing wheat growers in the State.

Functions of State Board under Commonwealth Act.

(2) The State Board is hereby empowered to act, subject to the provisions of this Act, as agent for the Board and the Consolidated Revenue Fund is hereby appropriated to the extent necessary to meet the remuneration and allowances of the members of the State Board and the expenses of the State Board in carrying out, as agent of the Board, the functions imposed upon it by the provisions of this Act:

Provided that nothing in this Act shall be construed so as to render the State liable to any other person in respect of the carrying out of those functions, the intention being that the State Board shall carry out those functions as agent for the Board.

6. (1) Subject to the provisions of this section, the Board may license, subject to such conditions as are specified in the license, any person, firm, company, or

State authority, to receive wheat on behalf of the Board, and may cancel or suspend the license.

(2) An authority, including the State Board, authorised under the provisions of any other Act to receive wheat, shall by force of this subsection be regarded as licensed by the Board as a licensed receiver with the powers and subject to the duties conferred and imposed by those provisions.

(3) When the licensed receiver receives from a grower wheat in new cornsacks the licensed receiver shall—

- (a) credit the grower with the nett weight of that wheat;
- (b) pay the grower an amount equal to the market price of the new cornsacks when received.

Powers of Board.

7. The Board may, subject to the directions of the Minister administering the Commonwealth Act—

- (a) purchase or otherwise acquire any wheat, wheaten flour, semolina, corn sacks, jute or jute products;
- (b) sell or dispose of any wheat, wheaten flour, semolina, corn sacks, jute or jute products purchased or otherwise acquired by the Board;
- (c) grist or arrange for the gristing of any wheat, and sell or otherwise dispose of the products of the gristing;
- (d) manage and control all matters connected with the handling, storage, protection, treatment, transfer or shipment of any wheat or other things purchased or otherwise acquired by the Board or sold or disposed of by the Board; and
- (e) do all matters which it is required by this Act to do or which are necessary or convenient to be done by the Board for giving effect to this Act.

Existing Board to act until Board constituted.

8. (1) The Board shall commence to perform its functions under this Act on the date fixed under the Commonwealth Act as the date on which the Board shall commence to perform its functions under that Act.

(2) Until the date so fixed, the Australian Wheat Board constituted under the National Security (Wheat Acquisition) Regulations of the Commonwealth shall have all the functions of the Board under this Act, and any reference in this Act to the Board shall be read as a reference to the Board constituted under those Regulations.

(3) For the purposes of the assumption by the Board of its functions under this Act, upon the cessation of their temporary performance and exercise by the Australian Wheat Board established by the National Security (Wheat Acquisition) Regulations, on and after the date referred to in subsection (1) of this section—

- (a) all things previously done under this Act by or in relation to the Australian Wheat Board so established shall, for the purposes of this Act, be deemed to have been done by or in relation to the Board;
- (b) all property, rights, obligations and liabilities which, immediately prior to that date were, by or in pursuance of this Act, vested in, or imposed on, the Australian Wheat Board so established shall, by force of this Act, be vested in or imposed on the Board;
- (c) all legal proceedings instituted, in relation to this Act, by or against the Australian Wheat Board so established and pending or incomplete immediately prior to that date may be continued or completed by or against the Board, and the Board shall be deemed to be substituted for the Australian Wheat Board so established as a party to those proceedings; and
- (d) in any contract, agreement or other instrument, arising out of the operation of this Act, to which the Australian Wheat Board so established was a party, any reference to that Board shall be read as a reference to the Board.

9. (1) Subject to this section, a person who is in possession of wheat—

Delivery of wheat.

- (a) may deliver that wheat to the Board; and

(b) shall deliver that wheat to the Board on demand made by or on behalf of the Board.

(2) Upon delivery of wheat to the Board under this section, the wheat shall become the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts affecting the wheat and, subject to the provisions of subsection (3) of section twelve of this Act the rights and interests of every person in and to the wheat shall be converted into a claim against the Board.

(3) A demand under this section may be made—

- (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 *Gazette*, in which case it may be addressed to persons generally, or to persons included in a class of persons.

(4) Nothing in this section shall apply to—

- (a) wheat harvested in any season prior to the 1948-1949 season;
- (b) wheat retained by the grower for use on the farm where it is grown;
- (c) wheat which has been sold by the Board;
- (d) wheat sold or delivered to any person with the approval of the Board; or
- (e) wheat the subject of trade, commerce or intercourse between States or required or intended by the owners thereof for the purpose of trade, commerce or intercourse between States.

(5) A person shall not—

- (a) refuse or fail to comply with a demand made under this section; or
- (b) deliver to the Board, wheat which has previously been sold by the Board.

Penalty—Thrice the value of the wheat in respect of which the offence is committed, or imprisonment for six months, or both.

10. (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 any interest in the wheat or in the payment to be made therefor, and all particulars known to him of those interests.

(3) Delivery or consignment, before the date on which this Act receives the Royal Assent, to a person, firm, company or State authority who or which was, at the time of delivery or consignment, a licensed receiver under the Commonwealth Act, of wheat other than wheat specified in subsection (4) of section nine of this Act, shall be deemed to have been delivery of that wheat to the Board in pursuance of this Act.

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

- (a) sell, deliver or part with the possession of, or take into his possession, wheat other than wheat specified in subsection (4) of section nine of this Act;
- (b) part with the possession of, or take into his possession, any wheat which 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), any wheat which is the property of the Board.

Penalty—Thrice the value of the wheat in respect of which the offence is committed, calculated on the basis of the guaranteed price, or imprisonment for six months, or both:

Provided that nothing in this section shall be construed so as to render the State liable to any person affected or claiming to be affected by the provisions of this section.

12. (1) The Board shall pay, in the manner and to the persons provided in the Commonwealth Act, for Price to be paid for wheat.

wheat delivered to it under this Act to the amount determined in accordance with the Commonwealth Act, but the State shall not be liable in any manner whatsoever in respect of wheat so delivered.

(2) The same rights (if any) shall exist against the person receiving an amount paid by the Board in accordance with this Act in respect of any wheat as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat by him, and any such rights may be enforced by action in any court of competent jurisdiction.

(3) Payment in good faith by the Board of any moneys payable in accordance with this Act to the person appearing to the Board to be entitled to receive them, shall discharge the Board from any further liability in respect of those moneys.

Declaration
to be provided
as to old
season's
wheat.

13. (1) A person who, after the latest prescribed date, delivers to the licensed receiver any wheat harvested prior to the latest prescribed date shall make and forward to the licensed receiver a declaration correctly stating the season during which that wheat was harvested.

(2) For the purposes of this section, "prescribed date" means the date which, in respect of each season, is declared under the Commonwealth Act by notice published in the *Commonwealth Gazette* to be the final date of that season.

Entry of
premises,
seizure of
wheat, etc.

14. (1) A member of the police force who is authorised by the Board or the Chairman of the Board to act under this section may—

(a) at all reasonable times, enter any premises and inspect any stock of wheat or corn sacks, and any accounts, books and documents relating to any wheat or corn sacks; and

(b) take possession of and remove any wheat which is the property of the Board, or the delivery of which has been lawfully demanded by the Board, or any corn sacks which are the property of the Board.

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

(3) Any wheat, other than wheat which is the property of the Board, of which possession is taken under subsection (1) of this section shall, for the purposes of this Act, but without affecting the liability of any person for any offence, be deemed to be delivered to the Board under this Act.

15. (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 which is false or misleading in any particular.

16. A person having any 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 any damage or deterioration whatsoever.

Proper care to be taken of wheat owned by Board.

17. The price at which the Board shall sell wheat in the State (otherwise than for export from Australia or for the manufacture of goods for export from Australia) during the period of twelve months commencing on the first day of December in any year shall be—

Home consumption price of wheat.

(a) in the case of wholesale sales of bulk wheat of fair average quality f.o.r. ports—the guaranteed price applicable to wheat of the season

which commenced on the first day of October next preceding that first day of December; and

- (b) in the case of any other sale—a price to be ascertained by adding to, or deducting from, that guaranteed price an amount which makes proper allowance for the quality of the wheat, the conditions of sale or the place of delivery.

Penalties.

18. (1) Any person who contravenes, or fails to comply with, any provisions of this Act for which no other penalty is provided shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or imprisonment for six months, or both.

(2) An offence against this Act may be prosecuted summarily.

Regulations.

19. The Governor in Council may make regulations not inconsistent with this Act prescribing all matters which, by the 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.

Application of Act.

20. Unless Parliament otherwise provides, this Act shall not apply in relation to wheat harvested after the thirtieth day of September, one thousand nine hundred and fifty-three.