

WHEAT MARKETING.

11° and 12° GEO. VI., No. XLIX.

No. 49 of 1947.

AN ACT to make provision for the marketing, sale and disposal of wheat, and to constitute a Western Australian Wheat Marketing Board, and for other relative purposes.

[Assented to 19th December, 1947.]

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:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Wheat Marketing Act, 1947*.

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Construction.

3. (1) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative powers of the Parliament of this State, to the intent that, where any provision therein would, but for this section, be construed as being in excess of those powers, it shall nevertheless

be deemed to be validly enacted to the extent to which it is not in excess of those powers; and to the extent to which it is so in excess, or is repugnant to a law of the Commonwealth, be deemed to be severable from the other provisions of this Act, and not to affect the validity or operation thereof.

(2) This Act shall not apply to—

- (a) wheat retained by the grower for use on the farm where it is grown;
- (b) wheat which has been purchased from the Board;
- (c) wheat sold or delivered to any person with the approval of the Board;
- (d) 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 the States; or
- (e) wheat which the Board refuses to accept on the grounds of inferior quality.

4. Subject to the provisions thereof, this Act shall operate and have effect throughout the State: Operation.

Provided that the Governor may, on the recommendation of the Minister, from time to time by proclamation, exempt any part of the State defined in such proclamation from the operation of this Act, and may, on the like recommendation, by proclamation, revoke or vary any such first-mentioned proclamation.

5. This Act is divided into Parts and Divisions as follows:— Act divided into Parts.

PART I., ss. 1-6—PRELIMINARY.

PART II., ss. 7-20—THE WESTERN AUSTRALIAN WHEAT MARKETING BOARD.

Division 1, ss. 7-18—Constitution and Proceedings of the Board.

Division 2, ss. 19-20—General Powers of the Board.

PART III., s. 21—LICENSED RECEIVERS.

PART IV., ss. 22-34—MARKETING OF WHEAT.

PART V., ss. 35-43—MISCELLANEOUS.

Interpretation. 6. In this Act, unless the context otherwise requires or indicates—

“Board” means The Western Australian Wheat Marketing Board constituted under this Act;

“closing date” means the last day in any year on which wheat produced for sale during any season may be delivered to the Board;

“licensed receiver” means a person licensed under this Act as an agent to receive wheat on behalf of the Board;

“grower,” subject to subsection (4) of section seven of this Act, means a person by whom or on whose behalf wheat is actually grown or produced for sale; and where wheat is grown or produced pursuant to any share-farming or partnership agreement (whether express or implied) includes any party or parties to such agreement;

“public notice” means a notice published in the *Government Gazette* and in a daily newspaper published at Perth;

“season” means the period during which wheat shall be grown and harvested between the first day of April in any one year and the thirty-first day of March in the next following year;

“sell” includes barter and exchange and either; and “sale” has a corresponding meaning.

PART II.—THE WESTERN AUSTRALIAN WHEAT MARKETING BOARD.

Division 1.—Constitution and Proceedings of the Board.

Constitution of Board.

7. (1) For the purposes of this Act, a Board to be known as The Western Australian Wheat Marketing Board is constituted.

(2) The Board shall consist of five members appointed by the Governor.

(3) (a) Subject as in this section provided and pending the appointment of the five members mentioned in subsection (2) of this section and the constitution of the Board pursuant to this Part of this Act, there shall be a temporary board. Temporary board.

(b) The temporary board shall consist of five persons appointed by the Governor.

(c) Of the five persons—

(i) one shall be the Chairman of Co-operative Bulk Handling Limited,

(ii) one shall be the Chairman of the Trustees of the Wheat Pool of Western Australia constituted under the Wheat Pool Act, 1932 (No. 54 of 1932), and

(iii) three shall be nominated by the Minister.

(d) The five persons referred to in paragraphs (b) and (c) of this subsection shall—

(i) hold office on the temporary board for a period commencing on appointment and terminating on the constitution of the Board or the expiration of twelve months, whichever shall first happen, and

(ii) be eligible at any time, including the period mentioned in the next preceding subparagraph, for appointment subject to this Act to the Board.

(e) If the Board shall not be constituted by the expiration of the period of twelve months mentioned in subparagraph (i) of this paragraph, the Governor may from time to time, at the request of the Minister, extend that period, and any extension of that period, until the Board is constituted or until the current business being conducted by the temporary board is finalised.

(f) Subject to this section, the provisions of this Act, the necessary alterations by way of adaptation being made, shall apply to the temporary board as if it were the Board constituted under this Act and the persons referred to in paragraphs (b) and (c) of this subsection were members of the Board.

(4) (a) Of the five members of whom the Board shall consist—

- (i) four shall be elected by growers, and
- (ii) one shall be nominated by the Minister.

(b) For the purposes of the provisions of this Act relating to the election by growers of persons to be appointed to the Board, the expression “grower” means a person whose name is, with the approval of the Minister, included in the roll mentioned in the next succeeding section and who is a grower who shall have delivered wheat to—

- (i) The Australian Wheat Board constituted under that name by the National Security (Wheat Acquisition) Regulations while those Regulations are in force and thereafter constituted under the Wheat Industry Stabilisation Act, 1946 (No. 24 of 1946 of the Commonwealth), during the season immediately preceding or current when this Act comes into operation, or
- (ii) the Board during the period of twelve months immediately preceding the last day appointed for enrolment of growers on the roll for the election.

Election of members.

8. (1) Subject to the provisions of this section, the election of the elective members of the Board shall be held and conducted in such manner and at such times as shall be prescribed by regulations.

(2) The Minister shall cause to be prepared in time for the election a roll of persons qualified to vote and appoint a time for enrolment.

(3) A person qualified to vote at the election shall be entitled to exercise one vote.

(4) The expenses incurred in connection with the election of the elective members of the Board shall be a charge upon, and shall be paid out of moneys from time to time in the hands of the Board for the purposes of this Act.

9. The Board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued, and acquire and hold real and personal property under the name of The Western Australian Wheat Marketing Board.

Board a body corporate.

10. The Board shall not, except in relation to any matter in which the Board is specially authorised by the Governor to act on behalf of the Crown, be the agent or servant or the representative of the Crown.

Board not to represent the Crown.

11. (1) The members of the Board shall be entitled to be paid such remuneration and expenses as are approved by the Governor.

Remuneration of members of the Board.

(2) Such remuneration and expenses shall be paid out of the moneys from time to time in the hands of the Board for the purposes of this Act.

12. (1) The member nominated by the Minister shall hold office during the pleasure of the Governor.

Tenure of office.

(2) (a) Of the four elective members first appointed to the Board, one shall retire in each year on the day preceding the anniversary of appointment, the first retirement under this paragraph to take place on the day preceding the first anniversary of appointment and succeeding retirements to take place in each succeeding year thereafter on the anniversary of that day, the elective member to retire in each year being according to agreement among the elective members or, failing agreement, being determined by lot.

(b) The vacancy in office on the Board resulting from each retirement referred to in the next preceding paragraph or from the expiration of each term of office referred to in the next succeeding paragraph shall be filled by a successor in office elected by growers for the purpose and appointed by the Governor.

(c) The successor shall be appointed for a term of office of four years, subject to the continuance in operation of this Act.

(d) In the event of—

(i) no successor being elected, or

(ii) an elected successor not taking office,

the member, who but for this paragraph would retire pursuant to subsection (2) paragraph (a) or paragraph (c) of this section, as the case may be, shall, subject to this Act, remain in office until a successor is elected and takes office.

(3) Any elective member retiring or whose term of office expires under this section is eligible for re-election.

(4) Notification of the appointment of persons as members of the Board shall be published in the *Government Gazette*.

**Appointment
of deputies.**

13. (1) The Minister may, in respect and subject to the approval of each elective member of the Board, appoint a person to be the deputy of that member, and in respect of the member nominated by the Minister, a person to be deputy of that member.

(2) Any person so appointed shall, in the event of the illness or absence of the member of whom he is the deputy, have all the powers of that member during his illness or absence.

(3) No such appointment of a deputy and no acts done by him as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

(4) (a) The office of an elective member shall become vacant, as well by reason of death as by reason of his—

- (i) absence from three consecutive regular meetings of the Board, unless he shall obtain the consent of the remaining members of the Board to absent himself therefrom;
- (ii) becoming of unsound mind or being declared under any law for the time being relating to lunacy, incapable of managing his affairs;
- (iii) becoming bankrupt or taking the benefit of any Act for the relief of bankrupt debtors, or
- (iv) resignation or retirement,

and the Governor may remove an elective member on the ground of misbehaviour or incapacity.

(b) The office of an elective member becoming vacant for any of the reasons mentioned in the preceding paragraph may be filled by the elective members remaining in office appointing for that purpose a person for the remainder of the term of the office so becoming vacant and during that time, and on expiration thereof the person so appointed shall be eligible for election to the Board.

14. (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of members of the Board not being complete at the time of such act or proceeding.

Proceedings of the Board not invalidated by vacancies or defects.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment or qualification of any member thereof, be as valid as if such member had been properly appointed and qualified.

15. (1) The first meeting of the Board after the passing of this Act shall be convened by the Minister, and thereafter meetings shall be held at the times and places determined by the Board: Provided that the chairman, or any three members of the Board may, on reasonable notice to members of the Board, call a meeting at any time.

Meetings of the Board.

(2) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

(3) The members of the Board may from time to time appoint one of their number to be chairman.

16. (1) Subject to the provisions of subsection (2) of this section—

Powers of Board; how exercised.

(a) all powers vested in the Board may be exercised by a majority of the members present at any meeting duly held at which a quorum is present and all questions shall be decided by a majority and by open voting;

- (b) the chairman shall preside at every meeting of the Board at which he is present. If the chairman is not present at a meeting, the other members of the Board present shall select one of their number to act as chairman at that meeting;
- (c) three members of the Board shall form a quorum;
- (d) the Board shall keep a record of its proceedings.

(2) The Board shall not put into operation or commence to put into operation any resolution of the Board when the member nominated by the Minister under section seven, subsection (4), paragraph (a), subparagraph (ii) of this Act notifies the Board that in his opinion to put the resolution into operation will be reasonably likely to result in—

- (a) jeopardising the repayment of any advance under section twenty, paragraph (c) or section thirty-seven of this Act, or
- (b) the charging to consumers of wheat in the Commonwealth of Australia of a price for wheat greater than—
 - (i) export value for Western Australian wheat, or
 - (ii) the price for wheat fixed or reasonably likely to be fixed pursuant to any Act passed or reasonably likely to be passed enabling the price fixing of wheat.

Executive
Committee.

17. The Board may appoint any number of its members to be an Executive Committee, and may delegate to that Committee such of its powers and functions as the Board, subject to any direction by the Minister, determines: Provided that—

- (a) no such delegation shall prevent the exercise of any power or function by the Board, and
- (b) the delegation may be revoked at any time and from time to time.

18. A member of the Board or his deputy shall not be personally liable for any act done in good faith by the Board or by the member or deputy acting as such. Protection of members.

Division 2.—General Powers of Board.

19. (1) The Board may appoint a manager to be the chief executive officer of the Board, a secretary and such clerks and other officers and employees as it requires and as the Minister may approve to assist the Board in carrying out its duties and functions under this Act. Officers of Board.

(2) Persons appointed in pursuance of the preceding subsection of this section or otherwise employed or engaged shall not be subject to the provisions of the Public Service Act, 1904-1935, or of the Government Employees (Promotions Appeal Board) Act, 1945, and the persons appointed under subsection (1) of this section shall hold office during the pleasure of the Board.

(3) The salaries and allowances of persons appointed, employed or engaged in pursuance of this section shall be charged upon and be payable out of the moneys from time to time in the hands of the Board for the purposes of this Act and shall be fixed by the Board: Provided that in any case where the rate of salary proposed exceeds five hundred and twenty pounds per annum the approval of the Minister shall be obtained before the Board shall fix the salary.

(4) With the consent of the Minister administering any department of the Public Service of the State, the Board may, on any terms agreed between itself and the Minister, make use of the services of any person employed in that department.

20. The Board may, for the purposes of carrying out the duties and functions imposed on it by the other provisions of this Act— General powers of Board.

- (a) buy or sell any property;
- (b) enter into any contract;
- (c) borrow money and mortgage or charge any of its property as security for the repayment of any money borrowed;

- (d) delegate any of its functions and revoke any such delegation;
- (e) establish or maintain premises for receiving, handling, classification, treatment, storage, protection or sale of wheat;
- (f) purchase, hire, construct, erect and maintain any premises, machinery, plant and equipment required for any treatment, packing or processing which the Board has the power to carry out;
- (g) undertake printing and publishing, transport and carrying services;
- (h) exercise the functions usually exercised by shipping agents;
- (i) by public notice, define and declare the closing date for any season specified in the notice;
- (j) do all other matters and things 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.

PART III.—LICENSED RECEIVERS.

Licensed
receivers of
Board.

21. (1) For the purposes of this Act the Board may, subject to the provisions of the next succeeding subsection, at its discretion license, subject to such conditions as may be attached by the Board, suitable persons, companies, firms and State instrumentalities as its agents, and may cancel or suspend any license.

(2) On receipt of an application for a license therefrom the Board shall grant a license to any person, company, firm, State instrumentality or other entity who or which, at the time of receipt of the application, is authorised by any Act other than this Act to receive and deal with wheat as an agent for growers:

Provided that—

- (i) the Board shall not be obliged to grant a license, the conditions and authority of which differ from the conditions and authority imposed and conferred upon the applicant for the license under that other Act, and

- (ii) where the conditions of the license and those imposed upon the applicant for the license by that other Act conflict or are otherwise inconsistent the conditions of the license shall prevail,

but this proviso shall be read subject to the provisions of paragraph (a) of subsection (2) of section forty-one hereof.

(3) An applicant for a license as an agent of the Board shall apply in writing to the Board for such license, and give to the Board such information relative to his application as the Board requires.

(4) Every licensed receiver shall be entitled to receive and deal with wheat on behalf of the Board, and shall perform such other duties and functions on behalf of the Board as the Board directs. He shall hold all wheat the property of the Board, which is at any time in his possession, on behalf of the Board, and shall not use or part with the possession of the wheat except in accordance with permission or instruction from the Board.

(5) Every licensed receiver shall be entitled to receive as remuneration for his services and for any facilities made available by him for the classification, weighing, storage, protection, handling, transfer and shipping of wheat, and as reimbursement for any expenses properly incurred by him, such amount as the Board, with the Minister's approval, determines.

PART IV.—MARKETING OF WHEAT.

22. (1) The Board may by public notice fix a day (in this section called the appointed day) on and after which every grower shall comply with the requirements of this Act as to the sale and delivery of wheat.

Duty to sell
and deliver
wheat to
Board.

(2) On or after the appointed day a grower shall not sell or deliver wheat to any person other than the Board and a person other than the Board shall not purchase or take delivery of wheat from a grower.

(3) Delivery of wheat to the Board shall be effected by delivering the wheat to a licensed receiver.

(4) (a) The Board shall accept delivery of all wheat tendered to it pursuant to this Act if the wheat is of merchantable quality and complies with all requirements prescribed.

40 of 1935,
ss. 13 and 24.

(b) Notwithstanding the provisions of the Bulk Handling Act, 1935-1946, the Board shall, during the operation of this Act and any continuance thereof or until a day to be proclaimed during that operation or continuance, accept delivery of all wheat, delivery of which, but for this Part of this Act, Co-operative Bulk Handling Limited would be bound to accept pursuant to that Act, and that company shall, to that extent, be absolved from performance of the obligations and duties imposed on it by that Act, and from liability on the bond furnished by it under that Act.

(5) In the event of the Board refusing to accept wheat on the ground of inferior quality, the grower may request an officer of the Department of Agriculture who shall be nominated by the Minister to determine whether the wheat shall be accepted or rejected by the Board, and the Board shall act in accordance with the determination.

Effect of
delivery of
wheat to
Board.
Compensation.

23. (1) All wheat delivered to the Board by growers and accepted by the Board shall thereupon be vested in and become the absolute property of the Board freed and discharged from all mortgages, charges, liens or pledges, interests, trusts, contracts and encumbrances affecting the wheat, and the rights and interests of every person to or in the wheat shall thereupon be converted into a claim against the Board to participate in the net proceeds from the disposal of the wheat in accordance with the provisions of this Act.

(2) The whole of the net proceeds from the disposal of the wheat of each season delivered to the Board at or before the closing date following that season shall be distributed by the Board as in this Act provided.

(3) The wheat having become the property of the Board each grower, and according to their rights and interests *inter se* the person or persons claiming interests in the wheat of such grower under mortgages, charges, liens, pledges, interests, or encumbrances affecting such wheat, shall subject as in this Act provided, be entitled to such proportionate share of the said net proceeds as the total wheat delivered by or on behalf of such grower to the Board bears to the total wheat delivered to the Board after allowing for dockages and deductions and subject to a deduction in

respect of the total wheat delivered by such grower as aforesaid of the cost of railage from the siding at which the wheat was received to the nearest port.

(4) Subject to this Act, the Board shall out of the proceeds of wheat disposed of by it under this Act, defray all costs and expenses of administering this Act, and make all payments authorised to be made by this Act.

(5) For the purposes of this Act, and subject to the provisions of section twenty-two subsection (5) of this Act, the Board's decision as to the quality or standard of the wheat, the method of determining the dockages or deductions, cost of freight and other charges, and all expenses incurred in or about the marketing of the wheat and the administration of this Act shall be final. Until otherwise decided by the Board, the method of determining the dockages and deductions shall be that set out in section twenty-five of the Bulk Handling Act, 1935-1946.

24. (1) As to wheat delivered to the Board in bulk, the Board shall be deemed to have been nominated by the grower under paragraph (c) of subsection (2) of section twenty-two of the Bulk Handling Act, 1935-1946.

Bulk
Handling
Act.

(2) The proviso to subsection (2) of section twenty-three of the said Act shall have no application to wheat delivered under this Act.

25. The claim of a grower to participate in the net proceeds from the disposal of wheat as provided in section twenty-three of this Act shall not be assignable and the Board shall not be affected by notice of any assignment or other dealing with the share of a grower in such net proceeds.

Claim of
grower not
assignable.

26. (1) When a grower has completed his deliveries to the Board of his wheat of a particular season, the Board shall cause to be issued to such grower a certificate in the prescribed form certifying the quantity and quality of the total wheat so delivered.

Issue of
certificates.

Provided that the Board may at its discretion issue more than one certificate to the same grower where his deliveries are spread.

(2) Every such certificate shall clearly state the name of the grower of the wheat and in case the wheat is subject to one or more mortgages, charges, liens or pledges of which the Board has received express notice, shall also clearly state the name of the mortgagee, chargee, lienee or pledgee whose security appears to be the first or prior security. In such case the certificate shall be issued in duplicate and the original shall be issued to such mortgagee, chargee, lienee or pledgee, the duplicate being issued to the grower.

Advances on account of participating rights.

27. With the consent of the Minister, the Board may make or arrange for advances on account of wheat delivered and any payment made on account of the wheat may be made at such time or times and on such terms and conditions and in such manner as the Board may think fit.

Payments—to whom made.

28. Where the wheat of any particular grower is the subject of one or more mortgages, charges, liens or pledges the first and any subsequent advances in respect of such wheat may be paid by the Board to the mortgagee, chargee, lienee or pledgee holding and against production of the certificate issued to him under section twenty-six of this Act and all other mortgagees, chargees, lienees or pledgees and the grower himself shall look to the payee to account to them in accordance with their rights and interests for payments received by him in excess of his claim under his security and the Board shall be absolved from all liability in respect of such excess.

Liens, mortgages, etc.

29. No person claiming any right or title, whether as owner of or as being entitled to any lien, mortgage, charge or pledge of or over any wheat delivered to the Board, shall have any claim against the Board on account thereof except as in this Act provided.

Sale of wheat by Board.

30. (1) Subject to this Act, the Board may to the best advantage of growers having regard to all relevant circumstances, sell or arrange for the sale of all wheat of which it becomes the owner, to such persons and at such prices and on such terms as it deems proper and by way of insuring the best advantage to growers, having regard to the possible future decline in prices for wheat, may enter into present contracts for the purchase or sale of wheat to be delivered at a definite future date:

Provided that whenever the Board enters into a present contract for the sale of wheat to be delivered at a definite future date, it shall for the purpose of delivery in performance of that contract allocate and retain possession of wheat of the requisite quantity from wheat held by it under this Act for sale and record particulars of the contract, allocation and retention.

(2) In arranging for the selling of wheat, the Board may, in particular, but without limiting the generality of the foregoing powers in this section—

- (a) appoint and employ such agents, servants and officers as may be necessary,
- (b) arrange with the Government of the Commonwealth or the State, or with any bank or other financial institution for financial assistance or accommodation, and give such security over its assets and property as it shall consider reasonable,
- (c) as far as practicable provide wheat for consumption within the State, and for the supply thereof during any period of shortage to those places within the State where any shortage is experienced,
- (d) make such arrangements as may be deemed necessary with regard to sales for export or for consignment to other countries or States,
- (e) become, by the acquisition of shares, a shareholder in any incorporated company, or enter into any agreement with any Commonwealth authority, or person, any association of persons, whether corporate or unincorporate, or with wheat marketing boards or corporations of any other States of the Commonwealth established under the laws of those States relating to the marketing of wheat with a view to procuring, or joining with others in procuring, the co-ordination and regulation of the control of the marketing of wheat both within and outside the Commonwealth: Provided that the power conferred by this paragraph shall not be exercised without the approval of the Governor.

Premium
wheat.

31. The Board may, if it thinks fit, enter into arrangements with millers to secure to any grower of special strong milling wheat a special allowance and in such case any such amount received and representing such special allowance shall be accounted for by the Board direct to such grower and not taken into account for the purpose of arriving at the net proceeds referred to in subsection (2) of section twenty-three of this Act.

Contracts for
sale of
wheat.

32. (1) Subject to this Act every contract (whether made before or after the issue of the public notice under section twenty-two of this Act) so far as it relates to the sale for delivery in the State of wheat which has been acquired by the Board shall, when specified by the Board by public notice be null and void as from the date upon which it was made so far as the contract was not completed by delivery at the date of such notice, and for the purposes of this section every contract shall be deemed to be severable.

(2) Any transaction or contract with respect to any wheat which is the subject matter of any contract declared by this section to be void, shall also be void; and any money paid in respect of any contract or part of a contract hereby made void, or of any such transaction as aforesaid, shall, to the extent to which a contract or transaction is made void, be repaid.

(3) All parties to any contract relating to the sale of any wheat, whether entered into prior to or after the issue of the public notice under section twenty-two of this Act, and which has not prior to the issue been completed by delivery, shall, within fourteen days of the issue, or of entering into the contract, whichever is the later date, furnish to the Board a return giving details of the contract and in the form prescribed.

Power to
enter and
search.

33. (1) Any member of the Police Force authorised so to do by the Board may, at any time of the day or night, enter and search any place, premises or vessel, or part thereof, where any wheat acquired by the Board is, or is suspected to be.

(2) For the purposes of this Act, any person thereunto authorised by the Board may, at all reasonable times, enter any place or premises where wheat may be and inspect any stocks of wheat and any accounts, books and documents relating to any wheat.

(3) Any person who hinders or prevents any entry or inspection by any person duly authorised under this section, shall commit an offence against this Act.

34. Any person having any wheat the property of the Board in his possession or under his care or control shall exercise proper care and take all reasonable and proper precautions and do all things necessary to preserve and safeguard the wheat free from damage and deterioration.

Protection
of wheat.

PART V.—MISCELLANEOUS.

35. (1) Where the Board has in good faith and without negligence made any payment—

Non-liability
of Board.

(a) to a grower delivering or causing to be delivered any wheat to the Board or to any person on his behalf, or

(b) to any person entitled or claiming to be entitled through such grower,

the Board shall not be answerable to any other person in respect of such payment, or any part thereof, or to any action or proceeding whatsoever for damages or otherwise in respect thereof.

(2) For the purpose of this section any person who is believed by the Board or its representative, on reasonable grounds, to be the grower shall be deemed to be such grower.

(3) This section shall not affect the rights between or among themselves of any parties claiming adversely to one another in respect of any such payment or any part thereof.

36. (1) The Board shall keep full accounts of all money received and paid by it and of the purposes for which the money was so received or paid.

Accounts and
audit.

(2) An auditor who shall be the Auditor General or an auditor nominated by the Board and approved by the Minister shall at least annually audit the accounts of the Board, and every member and officer of the Board shall give the auditor and his officers all the information relating to such accounts which he or they require, and shall, upon request, produce to the auditor and his officers any books, vouchers, or other documents relating to such accounts and do all things necessary to enable the audit to be made.

(3) During such time as the Auditor General conducts the audit the Board shall pay to the Treasurer of the State such reasonable sum for the audit as the Treasurer fixes. If and so long as a person other than the Auditor General conducts the audit, the Board shall pay to such person such auditing fee as may be arranged.

Guarantee
of bank
advances.

37. The Minister may, with the consent of the Treasurer of the State, arrange with a trading bank or other financial institution for the making by such bank or institution of advances to the Board for use on its behalf by the Board for the purposes of this Act, and may guarantee to such bank or institution the repayment out of consolidated revenue of the State of advances made by the bank or institution in pursuance of the arrangement.

Reports.

38. The Board shall at least annually make and submit a report of its proceedings to the Minister, together with a true copy of the accounts as then last audited and with a copy of the auditor's report thereon; and on receipt of same the Minister shall cause copies of such report and of such accounts with the auditor's report to be laid before both Houses of the Parliament.

Offences and
penalties.

39. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(2) Any person guilty of any offence against this Act shall be liable to a fine not exceeding one hundred pounds.

(3) Proceedings for offences against this Act shall be heard and determined summarily.

How legal
proceedings
taken.

40. (1) Any proceedings, whether civil or penal, may be taken in the name of the Board by the secretary or by any officer of the Board authorised in that behalf by the Board.

(2) No proof shall be required of the appointment of the secretary or any officer as an officer of the Board, or of the authority of the secretary or officer to take civil or penal proceedings in the name of the Board, but the averment in the process that the secretary or officer aforesaid is so authorised shall be deemed to be conclusive proof of the fact.

41. (1) The Governor may make regulations under this Act prescribing all such matters as by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act and facilitating the exercise of its powers by the Board.

(2) The power hereby given shall (without limiting its generality) be deemed to include power to make regulations—

- (a) regulating the supply, distribution, transport, purchase, sale or other disposal of wheat, either unconditionally or subject to such conditions as are specified or imposed in or in pursuance of this Act;
- (b) requiring growers, or persons dealing or trafficking in wheat as owners or agents or licensed receivers, or concerned in the transport or having the custody of wheat, to furnish returns containing such information as the Board may consider necessary;
- (c) for enabling the Board or any person authorised by it to inspect any records or accounts relating to wheat or to premises on which wheat is stored, graded or otherwise treated;
- (d) for prescribing the duties, functions and conduct of licensed receivers:

Provided that if there be any conflict or inconsistency between the provisions of the Bulk Handling Act, 1935-1946, and the provisions of any regulation made under this paragraph, the former shall prevail;

- (e) for the regulation and control of the supply, storage, distribution, marketing, sale, purchase, use and consumption of wheat;
- (f) for defining the functions, authorities and duties of the officers of the Board;
- (g) for any other matter which in the opinion of the Minister is incidental to carrying out the functions and duties imposed on the Board by this Act.

(3) Regulations made under this Act may prescribe penalties not exceeding twenty pounds in respect of any contravention of any of the regulations.

Ballot as to
continuance,
discontinuance
or modification.

42. (1) The Minister shall arrange for a ballot of growers to be held during the month of February in the year one thousand nine hundred and fifty-one on the questions—

(a) whether this Act should continue in operation after the thirty-first day of October, one thousand nine hundred and fifty-one, or

(b) whether the Board constituted under this Act should continue to operate in order to receive and dispose of wheat voluntarily delivered to it by or on behalf of the grower of the wheat pursuant to contract to be made between the Board and the grower.

(2) The Chief Electoral Officer for the State appointed under the Electoral Act, 1907-1940, shall conduct the ballot.

(3) Only such persons who shall have delivered wheat to the Board during the twelve months immediately prior to the thirty-first day of October, one thousand nine hundred and fifty shall be entitled to vote at the ballot.

(4) The Minister shall prepare and supply to the Chief Electoral Officer for the State a list containing the names of all persons entitled under subsection (3) of this section to vote at the ballot.

(5) The ballot shall be conducted by post.

Schedule.

(6) The ballot paper to be used for taking the ballot on the questions referred to in subsection (1) of this section shall be substantially in or to the effect of the form in the Schedule to this Act.

(7) Every person voting shall mark his vote on the ballot paper by placing the numeral 1 or the symbol X opposite his answer to the questions thereon.

(8) The elective members of the Board and the Minister shall each be entitled to act as scrutineers where the scrutiny of votes is conducted and on appointment they shall be entitled to act accordingly.

(9) The Minister shall cause public notice to be given fourteen days before the day appointed for conducting the ballot of the times and places where the scrutiny of votes is to be conducted.

(10) Subject to this Act the ballot shall be conducted in such manner as the Chief Electoral Officer for the State shall determine.

(11) The Minister shall cause public notice of the result of the ballot to be given.

(12) The Governor may make regulations prescribing all matters necessary or convenient to be prescribed in connection with the ballot.

43. This Act shall continue in operation until midnight on the thirty-first day of October, one thousand nine hundred and fifty-one. Duration of Act.

SCHEDULE.

Wheat Marketing Act, 1947.

Section 42
(6).

BALLOT PAPER.

Directions to Voter.—The voter should indicate his vote as follows:—

If in favour of *Question A* set forth hereunder, place the numeral 1 or a cross in the square opposite the question.

If in favour of *Question B* set forth hereunder, place the numeral 1 or a cross in the square opposite the question.

MARK ONLY ONE SQUARE WITH 1 OR X IF IN FAVOUR.

QUESTION A.

Are you in favour of the wheat Marketing Act, 1947, being continued in operation after the thirty-first day of October, 1951?

or

MARK
ONLY ONE
SQUARE
WITH 1 or X

QUESTION B.

Are you in favour of the Western Australian Wheat Marketing Board, constituted under the Wheat Marketing Act, 1947, continuing to operate in order to receive and dispose of wheat voluntarily delivered to it by or on behalf of the grower of the wheat pursuant to contract to be made between the Board and the grower?

MARK
ONLY ONE
SQUARE
WITH 1 or X