

**BANANA INDUSTRY
COMPENSATION TRUST
FUND.**

No. 59 of 1980.

**AN ACT to amend the Banana Industry
Compensation Trust Fund Act 1961-1975.**

[Assented to 24 November 1980.]

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:—

1. (1) This Act may be cited as the *Banana Industry Compensation Trust Fund Amendment Act 1980.* Short title and citation.

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Reprinted as approved for reprint 17 March 1971 and amended by Acts Nos. 94 of 1972 (as amended by No. 19 of 1973) and 31 of 1975.

(2) In this Act the Banana Industry Compensation Trust Fund Act 1961-1975 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Carnarvon Banana Industry (Compensation Trust Fund) Act 1961-1980.

Commencement.

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

Long title amended.

3. The long title to the principal Act is amended by deleting "to growers of bananas in the event of loss" and substituting the following—

" in the event of loss to growers of bananas in the Shire of Carnarvon " .

Short title amended.

4. Section 1 of the principal Act is amended by deleting the short title and substituting the following—

" Carnarvon Banana Industry (Compensation Trust Fund) Act 1961-1980 " .

Section 3 and Part titles amended.

5. The principal Act is amended—

(a) in section 3; and

(b) as to the titles of the Parts respectively preceding section 7, section 17, and section 24,

by deleting "BANANA INDUSTRY" wherever it appears.

Section 4 repealed.

6. Section 4 of the principal Act is repealed.

Section 5 amended.

7. Section 5 of the principal Act is amended—

(a) by deleting the definitions of "partial loss" and "total loss" ;

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(b) in the definitions of "Committee" and of "Fund", respectively, by inserting before "Banana" the following—

" Carnarvon "; and

(c) in the definition of "grower", by deleting "State" and substituting the following—

" district of the municipality of the Shire of Carnarvon ".

8. Section 7 of the principal Act is amended— Section 7 amended.

(a) in subsection (1), by inserting before "Banana" the following—

" Carnarvon "; and

(b) in subsection (2), by deleting "three".

9. Section 8 of the principal Act is amended by adding, after subsection (2), the following subsection— Section 8 amended.

" (3) On and after the commencement of the Banana Industry Compensation Trust Fund Amendment Act 1980—

(a) the body corporate previously constituted under this section by the name "The Banana Industry Compensation Committee" is preserved and continues in existence as a body corporate, under and subject to this Act, by the name "The Carnarvon Banana Industry Compensation Committee", but so that the corporate identity of the body corporate and its rights, powers, functions, duties, and liabilities are not affected; and

(b) a reference made before the commencement of that Act to the Committee under the name by which it was then known shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Committee. "

Section 17
amended.

10. Section 17 of the principal Act is amended in subsection (1) by inserting before "Banana" the following—

“ Carnarvon ”.

Section 19
amended.

11. Section 19 of the principal Act is amended—
in subsection (1)—by deleting all that occurs after "assessed" and substituting the following—

“in accordance with subsection (2) of this section and shall be paid by the wholesaler in accordance with section twenty of this Act.”; and

in subsection (2)—

(a) by deleting "fourteen", in each place where it occurs, and substituting the following—

“ twenty ”; and

(b) by inserting after "proportionate" the following—

“ , to the nearest cent, ”.

Section 25
amended.

12. Section 25 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting "whole or portion of"; and

(ii) by deleting "while engaged in producing bananas for sale" and substituting the following—

“ by reason of the destruction of bananas ”;

(b) by repealing subsection (2) and substituting the following subsection—

“ (2) The compensation payable under this Act to a grower shall be based on the assessed percentage of damage to bananas in the course of production by

the grower on the land of that grower by reference to the area of that land on which the destruction occurs. ”;

- (c) in subsection (3), by deleting the whole of the passage after “payable” and substituting the following—

“ , subject to section twenty-seven of this Act, at the rate of one dollar seventy-five cents per carton according to the extent of the assessed percentage of damage determined pursuant to section twenty-six of this Act. ”;

and

- (d) in subsection (4), by deleting “date” and substituting the following—

“ calendar year ”.

13. Section 26 of the principal Act is amended in subsection (1) by inserting after “destruction”, where it first occurs, the following—

Section 26 amended.

“ , expressed as a percentage of damage in relation to the area or respective areas in which destruction occurs, ”.

14. Section 27 of the principal Act is amended—

Section 27 amended.

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) For the purposes of payment of compensation under this Act the extent of the percentage of damage, subject to subsection (2) and subsection (3) of this section, shall be assessed and determined pursuant to the provisions of section twenty-six of this Act on an average basis in relation to the number of hectares of the grower’s land on which the destruction occurs, and if such area is less than one hectare then the extent

of the destruction shall be so assessed and determined proportionately in relation to that area. ”;

- (b) by repealing subsection (2) and substituting the following subsection—

“ (2) A grower may suffer a different percentage of damage in relation to different areas of his land and in such case may claim and be entitled to be paid compensation under this Act by reference to the extent of the damage suffered by the respective areas. ”;

- (c) by repealing subsection (3) and substituting the following subsection—

“ (3) Subject to subsection (3a) of this section, a grower is entitled to be paid compensation under this Act only where the loss suffered by him exceeds ten per centum of the value of the total quantity of bananas in course of production at the time of the loss on the area of his land to which the claim refers, but shall in each case bear the whole of the loss himself if the percentage of damage is assessed at ten per centum or less. ” ;
and

- (d) in subsection (4), by deleting the whole of the passage commencing “Schedule to this Act” to the end of the subsection and substituting the following—

“ Schedule to this Act. ”.

Section 29
amended.

15. Section 29 of the principal Act is amended in subsection (1)—

- (a) as to paragraph (a), by deleting “if all the claims for compensation are claims for partial loss only, they” and substituting the following—

“ claims for compensation ”; and

(b) by repealing paragraph (b) and paragraph (c) and substituting the following—

“ and

(b) to the extent to which the money in the Fund is insufficient to make payment of all claims in full, then the amount of the deficiency required to raise the payments to be made to eighty per centum of the value of the compensation assessed shall be made good by the Treasurer out of the Public Account. ” .

16. Section 32 of the principal Act is amended by deleting “on or before the first day of February in each year” and substituting the following—

Section 32
amended.

“ within twenty-eight days of being required to do so by notice in writing under the hand of the chairman ”.
