

GRAIN MARKETING.

No. 92 of 1982.

AN ACT to amend the Grain Marketing Act 1975-1981.

[Assented to 18 November 1982.]

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 *Grain Marketing Amendment Act 1982*.

Short title
and citation.

(2) In this Act the Grain Marketing Act 1975-1981 is referred to as the principal Act.

Act No. 85 of
1975 as
amended
by Acts
Nos. 4 and
89 of 1981.

(3) The principal Act as amended by this Act may be cited as the Grain Marketing Act 1975-1982.

Section 5
amended.

2. Section 5 of the principal Act is amended in subsection (1)—

(a) by deleting “proclamation” in the definition of “appointed date” and substituting the following—

“ Order ” ; and

(b) by deleting the definition of “lupin” and substituting the following definition—

“ “lupin” means all cultivars of *Lupinus angustifolius* L. (narrow-leaved lupin); ” .

Section 21
amended.

3. Section 21 of the principal Act is amended by deleting “proclamation” wherever it occurs in subsections (2) and (3) and substituting in each case the following—

“ Order ” .

Sections 32A
and 32B
inserted.

4. After section 32 of the principal Act, the following sections are inserted—

Settlement
of claims
before
determina-
tion.

“ 32A. (1) Where under section 32 (4) the Grain Pool has made one or more advance payments on account of claims for compensation in respect of the grain in a pool, the Grain Pool may, before determination of the claims under section 32 (3), make an offer of payment in full settlement of each claim.

(2) Where under subsection (1) the Grain Pool has made an offer of payment but the offer has not been accepted by every person to whom the offer was made, the Grain Pool may, before determination of the claims under section 32 (3), make a further offer or offers of payment in full settlement of any claims for compensation that remain outstanding.

(3) An offer of payment under subsection (1) or (2) may be made upon and subject to such terms and conditions as may be specified by the Grain Pool, but every such offer of payment shall be made on the same terms and conditions to all persons who have like claims for compensation.

(4) Subject to any levies that may have been imposed under section 28, payment by the Grain Pool, upon the valid acceptance of an offer under this section, has effect to extinguish the claim for compensation to which the payment relates.

32B. (1) Where the payment of compensation in respect of the grain in a pool has included payment under section 32A and a surplus results in respect of that pool, the amount of the surplus shall be paid into a fund to be known as the Prior Payment Reserve Fund.

Prior
Payment
Reserve
Fund.

(2) The Prior Payment Reserve Fund shall be applied by the Grain Pool as a first priority to meet any prior deficit which may have arisen in the case of a pool in respect of which any payment of compensation under section 32A has been made.

(3) Subject to subsection (2), the Prior Payment Reserve Fund may be applied by the Grain Pool for the following purposes—

- (a) after consultation with the Minister, in such manner as to directly benefit the grain industry;
- (b) to the extent of the amount of a surplus derived from a particular pool, to make a rateable distribution of all or part of that amount to those persons who accepted an offer of payment under section 32A with respect to their claims for compensation from that pool,

but, before authorizing any payment under this subsection from the Prior Payment Reserve Fund, the Grain Pool shall have regard to the need to maintain proper reserves. ” .

Section 35
amended.

5. Section 35 of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (1a) The accounts kept by the Grain Pool in respect of a pool shall show, separately from other receipts and payments, the receipts and payments which relate to the claims for compensation settled under section 32A and shall indicate the amount of the deficit or surplus resulting from the settlement of claims in that manner and, in the case of a surplus, the payment of that surplus into the Prior Payment Reserve Fund established by section 32B. ” .

Section 36
amended.

6. Section 36 of the principal Act is amended in subsection (3) by inserting after “this Act” the following—

“ or for the purposes of making payments under section 32A ” .

Validation.

7. (1) Notwithstanding the provisions of sections 20 and 21 of the principal Act, the Illyarrie cultivar of *lupinus angustifolius* shall be deemed for all purposes to have been a prescribed grain for the purposes of the principal Act on and after 1 August 1980 and the purported exercise of any power or the purported performance of any duty under the principal Act on or after that date by the Grain Pool in respect of the Illyarrie cultivar of *lupinus angustifolius* is hereby validated and declared to have been lawful to the same extent as if that cultivar had been a prescribed grain at the relevant time.

(2) Notwithstanding the provisions of sections 20 and 21 of the principal Act, the Marri cultivar of *lupinus angustifolius* shall be deemed for all purposes to have been a prescribed grain for the purposes of the principal Act on and after 16 May 1979 and the purported exercise of any power or the purported performance of any duty under the principal Act on or after that date by the Grain Pool in respect of the Marri cultivar of *lupinus angustifolius* is hereby validated and declared to have been lawful to the same extent as if that cultivar had been a prescribed grain at the relevant time.
