

GRAIN MARKETING (No. 2).

No. 89 of 1981.

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

[Assented to 26 November 1981.]

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 (No. 2) 1981*. 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 Act No. 4 of 1981.

(3) The principal Act as amended by this Act may be cited as the Grain Marketing Act 1975-1981.

Section 5
amended.

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

(a) by inserting before the definition of “barley” the following definition—

“ “authorized grain” means a grain that is an authorized grain by virtue of a current declaration by the Minister under section 34A; ” ; and

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

“ “producer” means a person—

(a) who delivers grain to a compulsory or a voluntary pool established by the Grain Pool; or

(b) discharges obligations pursuant to a contract entered into by the Grain Pool under section 34B (1),

or a person on whose behalf grain is so delivered or obligations are so discharged, and where grain is so delivered or obligations are so discharged on behalf of any share-farming or partnership agreement, includes each party to such an agreement; ” .

Heading to
Division 1
inserted.

3. After the heading to Part III of the principal Act the following heading is inserted—

“ *Division 1.—Marketing Pools.* ” .

Section 23
amended.

4. Section 23 of the principal Act is amended by repealing subsection (3) and substituting the following subsection—

“ (3) Where a contract or transaction, other than a contract entered into under section 34B (1), is void under subsection (1), each

party to the contract or transaction shall, within the period of 14 days after the appointed date, submit to the Board in writing complete details of the contract or transaction. ” .

5. Section 31 of the principal Act is amended— Section 31 amended.

(a) in subsection (1), by inserting after “vested in it” the following—

“ under section 29 (1) ” ; and

(b) in subsection (4), by deleting “Out of the proceeds of the sale of grain” and substituting the following—

“ Subject to section 34C (3), out of the proceeds of the sale of grain vested in the Grain Pool under section 29 (1) ” .

6. After section 34 of the principal Act, the following Division is inserted— Division 2 inserted.

“ *Division 2.—Trading.*

34A. (1) The Minister may, by notice published in the *Government Gazette*, declare that a grain, other than a prescribed grain or an approved grain, shall, on and after a date specified in the notice, be an authorized grain, and that grain shall be an authorized grain on and after that date unless and until it ceases to be an authorized grain pursuant to subsection (2) or (3). Authorized grains.

(2) The Minister may, by notice published in the *Government Gazette*, declare that an authorized grain shall cease to be an authorized grain on and after a date specified in the notice and that grain shall not be an authorized grain on and after that date unless and until it again becomes an authorized grain pursuant to subsection (1).

(3) Where a grain that is an authorized grain becomes a prescribed grain or an approved grain, the Order under section 20 (2) or the notice under section 26 (1), as the case may be, shall specify that, on and after the date on which that grain becomes a prescribed grain or an approved grain, as the case may be, that grain shall cease to be an authorized grain, and that grain shall not be an authorized grain on and after that date unless and until it again becomes an authorized grain pursuant to subsection (1).

Purchase of
authorized
grain by
the Grain
Pool.

34B. (1) The Grain Pool may, where a grain is an authorized grain, enter into a contract with any person for the purpose of acquiring any such grain, and a contract entered into under this subsection may make such provision as to price and contain such terms and conditions as may be agreed between the parties.

(2) Subject to section 23, a contract entered into under subsection (1) is valid and enforceable notwithstanding that the grain to which it relates has ceased to be authorized grain.

Sale of
grain by
the Grain
Pool.

34C. (1) Subsections (1) and (2) of section 31 apply in relation to grain acquired by the Grain Pool under section 34B as if it were grain vested in the Grain Pool under section 29 (1).

(2) The accounts of the Grain Pool shall show—

- (a) the receipts and payments in respect of its trading activities under this Division separately from the receipts and payments in respect of grain received for a pool; and
- (b) the receipts and payments in respect of each grain in which it trades under this Division separately from the receipts and payments in respect of any other grain in which it so trades.

(3) Out of the proceeds of the sale of grain acquired by the Grain Pool under section 34B (1) the Grain Pool—

- (a) shall pay such part of the costs and expenses of administering this Act as is attributable to the trading activities of the Grain Pool under this Division;
- (b) shall pay the contract price in relation to grain acquired under section 34B (1), and any other amounts payable by the Grain Pool pursuant to a contract entered into under that subsection; and
- (c) shall make any other payments authorized by this Act that relate to grain acquired under section 34B (1).

34D. The whole or any part of surplus money in the hands of the Grain Pool derived from trading under this Division in a particular grain during the immediately preceding financial year may—

Application
of surplus.

- (a) where the Grain Pool, after consultation with the Minister, so determines, be applied by the Grain Pool in such manner as to directly benefit the grain industry; or
- (b) where the Grain Pool so determines, be rateably distributed amongst persons with whom the Grain Pool entered into contracts under section 34B (1) during the year in which the surplus arose for the purpose of acquiring the grain traded,

but in so determining the Grain Pool shall have regard to the need to meet prior deficits that have arisen from trading under this Division in that or any other grain, and to maintain proper reserves. ” .

Section 36
amended.

7. Section 36 of the principal Act is amended—

(a) in subsection (1), by deleting “The Treasurer” and substituting the following—

“ Subject to subsection (3), the Treasurer ” ; and

(b) by inserting after subsection (2) the following subsection—

“ (3) This section does not apply in respect of money borrowed by the Grain Pool for the purposes of trading under Division 2 of Part III of this Act. ” .

Section 39
amended.

8. Section 39 of the principal Act is amended by deleting “that is vested in the Grain Pool” and substituting the following—

“ vested in the Grain Pool under section 29 (1) or acquired by the Grain Pool under section 34B (1), ” .

Validation.

9. (1) Trading in oats acquired by The Grain Pool of W.A. by contract after 31 October 1980 but before the coming into operation of this Act is hereby declared to have been lawful and the purported exercise of any power under the principal Act in relation to such trading is hereby validated and declared to have been lawful.

(2) The surplus money resulting from the trading activities validated by subsection (1) of this section shall be dealt with in accordance with section 34D of the principal Act as if the contracts pursuant to which the oats were acquired had been entered into under Division 2 of Part III of the principal Act.