

GRAIN MARKETING.

No. 85 of 1975.

AN ACT to establish The Grain Pool of W.A. to provide for the marketing of certain grains, and for related purposes.

[Assented to 18th November, 1975.]

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:—

PART I.—PRELIMINARY.

1. (1) This Act may be cited as the *Grain Marketing Act, 1975*. Short title and commencement.

(2) This Act shall come into operation on a date to be fixed by proclamation.

2. The Acts, Parts of Acts, and references to Acts set out in the First Schedule are repealed. Repeals.

Arrange-
ment.

3. This Act is divided into Parts as follows—

PART I.—PRELIMINARY.

PART II.—THE GRAIN POOL OF W.A.

PART III.—MARKETING OF GRAIN.

PART IV.—MISCELLANEOUS.

PART V.—PRODUCERS' COUNCIL.

PART VI.—TRANSITIONAL.

SCHEDULES.

Exemptions.

4. The Governor may by proclamation exempt any part of the State from the operation of this Act in respect of any or all of the prescribed grains and may revoke or vary such a proclamation by a further proclamation.

Interpreta-
tion.

5. (1) In this Act unless the contrary intention appears—

“advertisement” means an advertisement in at least three newspapers circulating generally in the State;

“appointed date” in relation to a prescribed grain, other than barley, means the date fixed by proclamation under section 21 for the commencement of marketing of that grain by the Grain Pool;

“approved grain” means a grain which is the subject of a current approval by the Minister under section 26;

“barley” includes a sample of cereal containing not less than sixty per centum of barley grain or seed;

“Board” means the Board of Directors;

“certificate” means a certificate issued by the Board in respect of a grain received by the Grain Pool for a pool;

“Chairman” means Chairman of the Board;

“compulsory pool” means a pool for the marketing of a prescribed grain;

“closing date” means the date on or before which grain for a pool may be delivered to the Grain Pool or a licensed receiver;

“Director” means a Director of the Grain Pool;

“electoral zone” means one of the zones set out in the Second Schedule;

“grain” means the seed of any crop or pasture species;

“Grain Pool” means The Grain Pool of W.A. established under this Act;

“licensed receiver” means a person who has under section 34 a licence to receive and handle grain on behalf of the Grain Pool;

“lupin” means—

(a) the Uniwhite, Uniharvest, and Unicrop cultivars of *Lupinus angustifolius* L. (narrow-leaved lupin); and

(b) the Weiko III cultivar of *Lupinus luteus* L. (yellow lupin);

“Order” means an Order in Council published in the *Government Gazette*;

“pool” means a pool established under this Act for the marketing of a grain;

“prescribed grain” means barley, linseed, rapeseed, and lupin and any other grain that is a prescribed grain by virtue of a current declaration under subsection (2) of section 20 and an Order made under subsection (1) of section 21;

“prescribed producer” in relation to an electoral zone means a person who is one of a class of persons prescribed by the regulations as producers in the electoral zone;

“producer” means a person who delivers grain to a compulsory pool or a voluntary pool established by the Grain Pool or on whose behalf grain is so delivered, and where grain is so delivered on behalf of any share-farming or partnership agreement, includes each party to such an agreement;

“Producers’ Council” means the Producers’ Council of The Grain Pool of W.A. constituted in accordance with section 43 and the rules referred to in section 44;

“season” means the period between the 1st April in any one year and the 31st March in the next following year;

“Schedule” means a Schedule to this Act;

“section” means a section of this Act;

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

“subsection” means a subsection of the section wherein the term is used; and

“voluntary pool” means a pool for the marketing of an approved grain.

(2) This Act shall be construed subject to the Bulk Handling Act, 1967 and the duties, powers, and functions imposed or conferred on Co-operative Bulk Handling Limited by or under that Act.

PART II.—THE GRAIN POOL OF W.A.

Establish-
ment.

6. (1) For the purposes of this Act, there is hereby established The Grain Pool of W.A.

(2) The Grain Pool—

(a) is a body corporate with perpetual succession and shall have a common seal;

(b) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued; and

(c) is capable of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Grain Pool affixed to any document and shall presume that it was duly affixed thereto.

7. The Grain Pool is not an agent or servant of the Crown.

Grain Pool
not to
represent
the Crown.

8. The Grain Pool shall carry out the administration of this Act.

Administra-
tion of
this Act.

9. (1) The governing authority of the Grain Pool is the Board of Directors.

Board of
Directors.

(2) The Board shall consist of nine Directors of the Grain Pool appointed by the Governor namely—

- (a) one person from each of the seven zones set out in the Second Schedule, who is, in each case, a prescribed producer in the electoral zone for which he is appointed and is elected for appointment by prescribed producers in that electoral zone; and
- (b) two persons who are nominated by the Minister from a panel of names submitted by producer organisations and who, in the opinion of the Minister, have special expertise in finance or marketing, or both.

(3) Prior to the first occasion on which appointments are to be made of Directors referred to in paragraph (b) of subsection (2), and on each occasion thereafter when the office of such a Director becomes vacant, the Minister shall, in writing, request producer organisations to submit to him, in writing, a panel of names of persons who are considered by those organisations to have the qualification required by that paragraph and are willing to be appointed as Directors.

(4) Where producer organisations have been requested, pursuant to subsection (3), to submit a panel of names to the Minister and no such panel has been duly submitted within twenty-eight days of the request having been made, or, if such a panel has been duly submitted within that time, no person named in the panel has, in the opinion of the Minister, the qualification required by paragraph

(b) of subsection (2), the Minister may nominate for appointment as Director other persons or another person, as the case requires who have, or has, in the opinion of the Minister, such a qualification.

(5) The Directors shall appoint one of the Directors referred to in paragraph (a) of subsection (2) to be Chairman of Directors.

(6) Each Director shall be appointed for a term of four years.

(7) Subject to this Act, where the term of office of any Director expires by effluxion of time, the Director is eligible for re-election and re-appointment or for re-nomination and re-appointment, as the case requires.

(8) Each Director may be, at any time, removed from office by the Governor for disability, insolvency, neglect of duty, or misconduct or if having been appointed under paragraph (a) of subsection (2) he ceases to be a prescribed producer in the zone for which he was elected and appointed.

(9) Each Director may, at any time, resign his office by writing addressed to the Minister.

(10) If any Director dies, resigns, or is removed from office, the vacancy in the office of Director so vacated shall be filled in the manner in which the appointment to the vacant office was originally made and the person appointed to that office shall be appointed for the residue of the term for which his predecessor was appointed.

(11) The Minister may grant leave of absence to a Director upon such terms and conditions as he determines.

(12) A person may be appointed to be a deputy of a Director and—

(a) in the case of a Director referred to in paragraph (a) of subsection (2) his deputy

shall be a person who is a prescribed producer in the electoral zone for which the Director was appointed and who is appointed as his deputy by the Board; and

- (b) in the case of a Director referred to in paragraph (b) of subsection (2), his deputy shall be a person who is nominated by the Minister and appointed by the Governor and who, in the opinion of the Minister, has special expertise in finance or marketing, or both.

(13) The powers of the Board are not affected by any vacancy in the membership thereof, and if a quorum is present all acts and proceedings of the Board are valid and effectual notwithstanding the vacancy.

(14) All acts and proceedings of the Board are, notwithstanding any defect in the appointment of any Director or deputy, or that any Director or deputy was disqualified or not entitled to act, as valid as if the Director or deputy has been duly appointed and was qualified to act and had acted as a Director or deputy and as if the Board had been duly and fully constituted.

10. Subject to this Act the meetings of the Board shall be conducted in such manner as the Board determines.

Conduct of meetings.

11. (1) The first meeting of the Board after the coming into operation of this Act shall be convened by the Minister and thereafter, subject to subsection (2) of this section, meetings shall be held at the times and places determined by the Board but the Chairman, or any two Directors, may, on reasonable notice to all Directors, call a meeting at any time.

Time of meetings.

(2) The Chairman shall ensure that a meeting of the Board is conducted in each month.

12. (1) At a meeting of the Board, five Directors entitled to vote constitute a quorum.

Proceedings of the Board.

(2) The Chairman shall preside at every meeting of the Board at which he is present but if the Chairman is not present at a meeting the other Directors present shall select one of their number to act as Chairman.

(3) Questions arising at a meeting of the Board shall be decided, in open voting, by a majority of the votes of Directors present thereat.

(4) The deputy of a Director has, at any meeting of the Board at which he but not the Director is present, all the powers and functions of a Director.

(5) The Chairman has a deliberative vote only and, if the votes of Directors present at a meeting and voting on a question are equally divided, the question shall be decided in the negative.

(6) The Board shall keep a record of its proceedings.

Delegation.

13. (1) The Board may delegate to any Director, officer or employee of the Board or other person, any of its powers and functions, except this power of delegation.

(2) The Board may at any time revoke a delegation given under subsection (1) of this section, and a delegation so given does not prevent the exercise or discharge by the Board of any of its powers or functions.

Remuneration and expenses of Directors and their deputies.

14. Directors and their deputies shall receive such remuneration and expenses as are recommended by the Board and approved by the Governor.

Protection of Directors.

15. A Director or a deputy of a Director is not personally liable for any act done in good faith by the Board or by him acting as a Director or deputy.

Officers and employees of the Grain Pool.

16. (1) The Board may appoint such officers and employees of the Grain Pool as are necessary for the purposes of this Act.

(2) On the date of coming into operation of this Act, all officers and employees who were employed immediately prior to that date by The Grain Pool of W.A. established under the Grain Pool Act, 1932, and who are willing and able to be employed by The Grain Pool of W.A. established under this Act, shall be deemed to be appointed officers and employees of The Grain Pool of W.A. under this Act on the same terms and conditions, including the salary payable, as they were employed by The Grain Pool of W.A. under the Grain Pool Act, 1932 immediately prior to that date.

(3) Where an officer or employee is deemed to be appointed in pursuance of subsection (2) he retains his existing and accruing rights and for the purpose of determining those rights, his service as an officer or employee of The Grain Pool of W.A. under the Grain Pool Act, 1932 shall be taken into account as if it were service with The Grain Pool of W.A. under this Act.

17. Subject to any relevant award or industrial agreement under the Industrial Arbitration Act, 1912, and subject to section 16, the terms and conditions of officers and employees of the Grain Pool, including the salary payable, are such terms and conditions as the Board determines.

Terms and conditions of employment.

18. On the date of coming into operation of this Act—

Transfer of property, rights, obligations and liabilities.

- (a) all right, title, and interest to and in any property, including any reserve fund, that was immediately prior thereto vested in or held by—
- (i) The Grain Pool of W.A., established under the Grain Pool Act, 1932;
 - (ii) the Western Australian Barley Marketing Board, constituted under the Marketing of Barley Act, 1946; and
 - (iii) the Western Australian Seed Board, established under the Seed Marketing Act, 1969,

- (in this section called "the former bodies") is, by force of this section and without further assurance, transferred to, and vested, for the purposes of this Act, in The Grain Pool of W.A. established under this Act;
- (b) all rights, obligations, and liabilities of the former bodies or any of them existing immediately prior thereto are, by force of this section vested in or imposed on, The Grain Pool of W.A. established under this Act;
 - (c) in any agreement, whether in writing or not, and in every deed, contract, or other instrument to which any of the former bodies was a party or by which it was affected, a reference to any such of the former bodies shall take effect as a reference to The Grain Pool of W.A. established under this Act; and
 - (d) any proceedings pending immediately prior thereto to which any of the former bodies was a party shall be continued as if The Grain Pool of W.A. established under this Act were a party thereto in lieu of any such former body.

General
powers
of the
Grain Pool.

19. The Grain Pool shall have, for the purposes of this Act, the following general powers—

- (a) to buy and sell any property;
- (b) to enter into any contract;
- (c) to borrow money;
- (d) to mortgage or charge any of its property as security for the repayment of any money borrowed;
- (e) subject to section 39 of the Bulk Handling Act, 1967 and after consultation with the Company within the meaning of that Act, to establish or maintain premises, machinery, plant, or other equipment for

receiving, handling, classifying, storing, protecting, purifying, treating, processing, packing, or selling grain;

- (f) to act as shipping agent;
- (g) to undertake and carry on business transactions, and to do all other things, which are necessary or convenient to be done by the Grain Pool for giving effect to this Act;
- (h) to act as trustee of reserve funds vested in the Grain Pool by the operation of section 18, to amalgamate for the purpose of deposit and investment all or any of such reserve funds if the Board considers it necessary or convenient so to do and from time to time, to invest any moneys forming part of any such reserve funds or the accumulations thereof in any investments or securities which the Board considers appropriate or in the purchase of real estate with power as to real estate to sell, transfer, improve, manage, develop, exchange, let, mortgage, or otherwise dispose of, deal with, or turn to account, the same;
- (i) to act as trustee of the Grain Research Fund established under section 28 and to keep separate accounts in respect of that Fund with the same powers of investment in respect of the moneys forming part of that Fund or the accumulations thereof as are conferred on the Grain Pool by paragraph (h) of this section in relation to the reserve funds or the accumulations thereof mentioned in that paragraph;
- (j) to accept voluntary contributions to the reserve funds vested in the Grain Pool by the operation of section 18, and to the Grain Research Fund established under section 28, from producers and any other persons, whether such contributions are made in cash or by delivery of grain or by deductions

authorized by producers from compensation payable for grain delivered to the Grain Pool or otherwise howsoever;

- (k) to apply all reserve funds vested in the Grain Pool by the operation of section 18 in accordance with the trusts on which they were held immediately prior to the date of coming into operation of this Act; and
- (1) to apply the Grain Research Fund established under section 28 and the accumulations thereof, and the investments representing the same in such manner as is recommended and approved pursuant to subsection (9) of section 28.

PART III.—MARKETING OF GRAIN.

Prescribed grains.

20. (1) Barley, linseed, rapeseed, and lupin are prescribed grains.

(2) On the recommendation of the Minister, the Governor may, by Order, declare that a grain specified in the Order shall, on and after a date to be fixed by the Governor pursuant to subsection (1) of section 21, be a prescribed grain, and that grain shall be a prescribed grain on and after that date unless and until it ceases to be a prescribed grain pursuant to subsection (3).

(3) On the recommendation of the Minister, the Governor may, by Order declare that a prescribed grain, other than barley, specified in the Order shall cease to be a prescribed grain on and after a date so specified and that grain shall not be a prescribed grain on and after that date unless and until it again becomes a prescribed grain pursuant to subsection (2) of this section and subsection (1) of section 21.

Appointed date for commencement of the marketing of grain that becomes a prescribed grain.

21. (1) The Governor shall, by Order fix a date for the commencement of the marketing by the Grain Pool of a grain specified in an Order pursuant to subsection (2) of section 20.

(2) The appointed date shall be not less than one month after the proclamation fixing it has been published in the *Government Gazette*.

(3) Within the period of fourteen days after the proclamation fixing the appointed date has been published in the *Government Gazette* the Board shall, by advertisement, give notice of the appointed date and of the marketing arrangements for that grain on and after that date.

22. (1) The Grain Pool is the sole marketing authority of prescribed grain.

Grain Pool
sole
marketing
authority of
prescribed
grain.

(2) Subject to subsection (3), a person shall not sell or deliver a prescribed grain to any other person except the Grain Pool.

(3) Subsection (2) does not apply to a prescribed grain—

- (a) that has been previously purchased from the Grain Pool; or
- (b) that a person sells and delivers with the written approval of the Board, which may be given subject to the person entering into a binding agreement for payment by him or on his behalf to the Grain Pool for the Grain Research Fund established under section 28 of an amount equivalent to the levies which would have been imposed, and paid to that Grain Research Fund, if the prescribed grain had been delivered to the Grain Pool for a compulsory pool.

23. (1) Where a contract related wholly or partially to the sale or delivery of a quantity of a grain, other than barley, which is a prescribed grain and is not completed by the delivery of all that quantity before the appointed date, the contract is, to the extent of the amount of that grain not so delivered, void from the date it was made and is to that extent severable, and any other contract or any transaction in respect of that grain is void and severable to the same extent.

Certain
contracts
void and
severable.

(2) If any money has been paid in respect of a prescribed grain that is the subject of a contract or

transaction that is void under subsection (1), the money shall be repaid in proportion to the extent to which the contract or transaction is so void.

(3) Each party to a contract or transaction that is void under subsection (1) shall, within the period of fourteen days after the appointed date, submit to the Board in writing complete details of the contract or transaction.

Pool or
pools for
marketing
prescribed
grain.

24. (1) The Grain Pool shall, on such terms and conditions as it thinks fit, establish and maintain a pool or separate pools for the marketing of a prescribed grain produced in a season.

(2) Within the period of fourteen days after a compulsory pool is established the Board shall, by advertisement, give notice of the compulsory pool and its terms and conditions.

(3) For each compulsory pool the Board shall fix a date on or before which grain for the compulsory pool may be delivered to the Grain Pool or a licensed receiver and may vary that date.

(4) Within the period of fourteen days after the closing date is fixed or varied the Board shall, by advertisement, give notice of that date or that date as varied.

Receival
of a
prescribed
grain by the
Grain Pool.

25. Subject to the terms and conditions of a compulsory pool, the Grain Pool shall receive for the compulsory pool all of a prescribed grain—

- (a) that is produced in the season to which the compulsory pool relates;
- (b) that is delivered to the Grain Pool or a licensed receiver on or before the closing date of the compulsory pool by or on behalf of the producer; and
- (c) that complies with any standards that apply to the compulsory pool.

Voluntary
pools.

26. (1) The Minister may, by notice published in the *Government Gazette* approve of any grain, other than a prescribed grain, being the subject

of voluntary pools and may by like notice withdraw that approval.

(2) The Grain Pool may, on such terms and conditions as the Minister approves, establish and maintain each year a pool or separate pools for the marketing of an approved grain produced in a season and delivered to the Grain Pool by producers of the approved grain subject to the terms and conditions of the voluntary pool.

(3) Within the period of fourteen days after a voluntary pool is established the Board shall, by advertisement, give notice of the voluntary pool and its terms and conditions.

(4) For each voluntary pool the Board shall fix a date on or before which grain for the voluntary pool may be delivered to the Grain Pool or a licensed receiver and may vary that date.

(5) Within the period of fourteen days after the closing date is fixed or varied the Board shall, by advertisement, give notice of that date or that date as varied.

27. For the purposes of sections 25 and 26, where the Board has reasonable grounds to believe that a person is the producer of the grain delivered to the Grain Pool, he is deemed to be the producer. Producers.

28. (1) The Governor, on the recommendation of the Minister after the Minister has consulted producer organisations, may by Order give authority to the Grain Pool to impose levies on a prescribed grain or an approved grain specified in the Order to the extent so specified, Levies.

(2) Where the Governor gives an authority pursuant to subsection (1), the Grain Pool shall impose the levies on producers who deliver to the Grain Pool grain that is the subject of the authority.

(3) The amount of the levies so imposed in respect of a grain shall be paid into a reserve fund to be applied for grain research to be known as the Grain Research Fund.

(4) There shall be a committee to be known as the Grain Research Committee to advise the Minister on the application of the Grain Research Fund.

(5) The Grain Research Committee—

(a) shall consist of five persons appointed by the Minister on such terms and conditions as he thinks fit—

(i) two of whom shall be producers appointed from a panel of names submitted by producer organisations;

(ii) one of whom shall be a Director referred to in paragraph (a) of subsection (2) of section 9;

(iii) one of whom shall be a representative of the Department of Agriculture of the State; and

(iv) one of whom shall be a representative of the University of Western Australia; and

(b) may function notwithstanding any vacancy on it.

(6) Prior to the first occasion on which appointments are to be made of members of the Grain Research Committee referred to in subparagraph (i) of paragraph (a) of subsection (5), and on each occasion thereafter when the office of such a member becomes vacant, the Minister shall, in writing, request producer organisations to submit to him, in writing, a panel of names of producers who are willing to be appointed members of the Grain Research Committee.

(7) Where producer organisations have been requested, pursuant to subsection (6) to submit a panel of names to the Minister and no such panel has been duly submitted within twenty-eight days of the request having been made, the Minister may appoint as a member of the Grain Research Committee such producers or producer, as the case requires, as the Minister thinks fit.

(8) Any person appointed to the Grain Research Committee may be removed by the Minister at any time.

(9) The Grain Pool shall pay from the Grain Research Fund for the purposes thereof such sums as are recommended by the Grain Research Committee and approved by the Minister.

29. (1) Where the Grain Pool receives grain for a pool, the grain is vested in the Grain Pool freed and discharged from all trusts and encumbrances, and all previous rights and interests of any person in respect of the grain are converted into a claim for compensation under this Act by a person to whom a certificate is issued or his assignee.

Grain vests
in the
Grain Pool.

(2) On the recommendation of the Minister, the Governor may, by Order, declare that an approved grain specified in the Order shall on and after a date so specified be a special approved grain, and that approved grain shall be a special approved grain on and after that date unless and until it ceases to be a special approved grain pursuant to subsection (3).

(3) On the recommendation of the Minister the Governor may, by Order, declare that a special approved grain shall cease to be a special approved grain on and after a date so specified and that approved grain shall not be a special approved grain on and after that date unless and until it again becomes a special approved grain pursuant to subsection (2).

(4) Notwithstanding section 9 of the Bulk Handling Act, 1967-1974, where any portion of a special approved grain is delivered to, and received by, the Company within the meaning of that Act—

- (a) the Company is deemed to have received it, as a licensed receiver within the meaning of this Act, on behalf of the Grain Pool; and
- (b) the Grain Pool is, for the purposes of subsection (1) of this section, deemed to have received it—
 - (i) for the current voluntary pool for the marketing of such grain of a like

- grade and classification to that of the portion so delivered and received; or
- (ii) if there is no such current voluntary pool, for the next succeeding voluntary pool for the marketing of such grain of a like grade and classification to that of the portion so delivered and received.

Classifica-
tion and
certificate.

30. (1) As soon as practicable after the Grain Pool receives grain for a pool the Board—

- (a) shall classify or cause to be classified each lot of the grain;
- (b) shall determine or cause to be determined the dockages on each lot of the grain;
- (c) shall issue a certificate in the prescribed form to the person by whom or on whose behalf that lot was delivered or, if he authorizes the Board in writing, before or at the time of delivery, to issue the certificate to another person, issue it to that other person; and
- (d) shall, in the certificate, certify in respect of that lot—
- (i) its quantity and its classification or classifications and the dockages thereon; and
- (ii) that compensation for it is payable to the person to whom the certificate is issued or his assignee.

(2) Where there is more than one producer of a particular lot of grain, the Board may grant separate certificates in accordance with the respective interests of the producers.

Sale of
grain by the
Grain Pool.

31. (1) The Grain Pool may sell grain vested in it to such persons, at such prices, and on such terms as the Board thinks fit.

(2) Without limiting the generality of subsection (1) the Grain Pool may, for the purposes of that subsection—

- (a) employ agents;

- (b) supply grain for consumption in the State or those parts of the State where there is a shortage of grain;
- (c) export grain, or sell grain for export, to other countries or States; and
- (d) subject to the approval of the Governor, to achieve co-ordination and regulation of the control of the marketing of a grain within and outside the Commonwealth, become a shareholder in any incorporated company or enter into any agreement relating to the marketing of that grain with a Commonwealth authority, a grain marketing board or corporation of another State, any person, or any association of persons.

(3) The accounts of the Grain Pool shall show separately the receipts and payments in respect of the different classifications, if any, of grain in a pool.

(4) Out of the proceeds of the sale of grain the Grain Pool—

- (a) shall pay all costs and expenses of administering this Act;
- (b) shall pay all amounts payable in respect of claims for compensation under this Act; and
- (c) shall make all other payments authorized by this Act.

32. (1) A claim for compensation shall be in the prescribed form. Compensa-
tion.

(2) The Board shall recommend to the Minister the amount of compensation to be paid on claims in respect of the grain in a pool and shall base their recommendation on the rate or rates per tonne computed by reference to the nett proceeds from the sale of the grain, the quantities of the grain, the classifications of the grain, and the dockages thereon but shall not so recommend until, in the opinion of the Minister, the Grain Pool has sold a sufficient quantity of the grain to make a just recommendation.

(3) After receiving the recommendation of the Board, the Minister shall determine the amount of compensation to be paid subject to the levies imposed pursuant to section 28.

(4) Pending the determination of a claim, the Grain Pool may, with the consent of the Minister, make, at such time or times and on such terms and conditions as the Board thinks fit, advance payment or payments on account of the claim.

Classifica-
tions and
dockages.

33. For the purposes of this Act, classifications and dockages in respect of a grain delivered to the Grain Pool shall be determined in accordance with the procedures provided in relation thereto by and under the Bulk Handling Act, 1967, but where no procedure is so provided shall be determined by the Board subject to like procedures for persons who are dissatisfied with the determination to those provided by and under subsections (5) and (6) of section 43 of that Act in respect of grain to which that section applies.

Licensed
receivers
on behalf
of the
Grain Pool.

34. (1) For the purposes of this Act, where a person makes application in writing giving such information as the Board requires, the Grain Pool may, on such conditions as the Board thinks fit, grant to that person a licence to receive and handle a grain on behalf of the Grain Pool.

(2) The Company within the meaning of the Bulk Handling Act, 1967 has by virtue of this subsection a licence to receive and handle a grain on behalf of the Grain Pool.

(3) A licensed receiver shall not dispose of grain received on behalf of the Grain Pool except as directed by the Board.

(4) A licensed receiver may, in addition to receiving and handling a grain, exercise, in respect of the grain, such other functions on behalf of the Grain Pool as the Board directs.

(5) The Grain Pool shall, out of the moneys held by the Grain Pool for the purposes of this Act, pay to a licensed receiver, for the services performed

and the facilities provided by him on behalf of the Grain Pool, such remuneration and expenses as the Board recommends and the Minister approves.

PART IV.—MISCELLANEOUS.

35. (1) The Grain Pool shall keep full accounts of all moneys received and paid by it and of the purposes for which the money was so received or paid. Accounts and Audit.

(2) The Auditor General shall at least annually audit the accounts of the Grain Pool.

(3) Directors, officers, employees, and agents of the Grain Pool, and licensed receivers shall, to the extent of their knowledge, give to the Auditor General and his officers all information relating to such accounts which he or they require and shall upon request produce to them all books, vouchers, and other documents relating to the accounts and do all things necessary to enable the audit to be made.

(4) The Grain Pool shall pay to the Treasurer of the State such reasonable sum for the audit as the Treasurer fixes.

36. (1) The Treasurer of the State is authorized to guarantee on behalf of the State, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Grain Pool under this Act and the payment of interest thereon. Guarantee of money borrowed.

(2) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to subsection (1) to be paid out of the Public Account, as defined in the Audit Act, 1904, which account is hereby to the necessary extent appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Grain Pool or otherwise in respect of a sum so paid by the Treasurer to be paid into that account.

37. (1) The Board shall at least annually make and submit a written report of the activities of the Grain Pool to the Minister with a true copy of its Reports.

accounts as last audited and a copy of the Auditor General's report on those accounts.

(2) As soon as practicable after receiving the documents referred to in subsection (1), the Minister shall cause copies of them to be laid before both Houses of Parliament.

Power to enter and search.

38. (1) Where there are reasonable grounds to believe that a provision of this Act has been or may have been contravened in respect of any grain, a person authorized by the Board may at any time enter and search any place, premises or vessel where that grain is or is suspected to be and may inspect any stocks of that grain and accounts, books and documents relating to that grain.

(2) Before entering any premises pursuant to subsection (1) the person authorized by the Board shall obtain a warrant to do so by a Magistrate or Justice of the Peace.

(3) A person shall not hinder any other person acting pursuant to subsections (1) and (2).

Protection of grain.

39. Where a person has possession, custody, or control of grain that is vested in the Grain Pool he shall do all things necessary to prevent loss, damage, or deterioration of that grain.

Offences and penalties.

40. A person who contravenes any provision of this Act is guilty of an offence.

Penalty: One thousand dollars.

How legal proceedings taken.

41. Proceedings for an offence under this Act and civil proceedings on behalf of the Grain Pool may be taken in the name of the Grain Pool by any officer of the Grain Pool authorized by the Board for that purpose.

Regulations.

42. The Governor may make regulations which appear to him to be necessary or convenient for effectually carrying out the objects and purposes of

this Act and may prescribe as the maximum penalty for a breach of the regulations a penalty not exceeding two hundred and fifty dollars.

PART V.—PRODUCERS' COUNCIL.

43. (1) On and after the coming into operation of this Act, the Growers' Council within the meaning of the Grain Pool Act, 1932 immediately prior to the date of the coming into operation of this Act is preserved and continues in existence under and subject to this Act by the name "Producers' Council of the The Grain Pool of W.A." and shall be an advisory body to the Board.

Constitu-
tion.

(2) Each person who was, immediately prior to the coming into operation of this Act, a councillor of the Growers' Council referred to in subsection (1) shall be a councillor of the Producers' Council under and subject to this Act and shall hold office as such for the period he would have remained a councillor of that Growers' Council if this Act had not come into operation and there shall be an *ex officio* councillor of the Producers' Council who shall be the Chairman of the Board of Directors of the Grain Pool or, in his absence, such director of the Grain Pool who is appointed by the Board for that purpose.

(3) As soon as practicable after the coming into operation of this Act, the Board shall cause to be published in the *Government Gazette* a list of elected councillors of the Producers' Council and the periods for which they shall respectively hold office by virtue of subsection (2).

(4) After the publication of the list of elected councillors of the Producers' Council pursuant to subsection (3), the Commissioner for Corporate Affairs may destroy the records held by him pursuant to section 21 of the Grain Pool Act, 1932.

(5) Within a reasonable time before the end of the period of five years after the date of coming into operation of this Act the Board after consultation with the Producers' Council shall report to the

Minister on the advisability or otherwise, having regard to the proper administration of this Act, of the Producers' Council continuing in existence beyond that period.

Rules.

44. (1) The rules in the Third Schedule to this Act shall have effect on and after the coming into operation of this Act.

(2) The Board may, subject to the approval of the Producers' Council from time to time by resolution vary, amend, or add to such rules and may make other rules not contrary to or inconsistent with the provisions of this Act for the purpose of regulating the role of the Producers' Council as an advisory body to the Board.

(3) When such resolution has been passed by the Board and approved by the Producers' Council the Board shall cause it to be published in the *Government Gazette* accompanied by a certificate under the hand of the chairman of the meeting of the Board at which the resolution was passed to the effect that the resolution has been duly passed in accordance with this Act and also accompanied by a certificate under the hand of the chairman of the Producers' Council to the effect that the resolution has been approved by the Producers' Council, and thereupon the variation, amendment, or addition to the rules or the new rule as contained in the resolution shall take effect and be as valid and effectual as if it had been contained in the Third Schedule.

(4) Section 36 of the Interpretation Act, 1918 does not apply to rules made under this section.

PART VI.—TRANSITIONAL.

Interim
Board of
Directors.

45. Notwithstanding the provisions of section 9, the constitution of the Board and the appointment, elections, and terms of office of Directors shall be in accordance with the provisions of the Fourth Schedule for such interim period as is necessary by virtue thereof.

SCHEDULES.

FIRST SCHEDULE.

S. 2.

Number of Act.	Short title of Act.
17 of 1946	Marketing of Barley Act, 1946.
1 of 1949	Marketing of Barley Act Amendment (Continuance) Act, 1949.
31 of 1952	Marketing of Barley Act Amendment (Continuance) Act, 1952.
25 of 1955	Marketing of Barley Act Amendment Act, 1955.
46 of 1975	Marketing of Barley Act Amendment Act, 1975.
115 of 1969	Marketing of Linseed Act, 1969.
65 of 1971	Marketing of Linseed Act Amendment Act, 1971.
25 of 1973	Seed Marketing Act Amendment Act, 1973.
54 of 1932	Wheat Pool Act, 1932.
61 of 1948	Wheat Pool Act Amendment Act (No. 2), 1948.
81 of 1948	Wheat Pool Act Amendment Act, 1948.
32 of 1949	Wheat Pool Act Amendment Act, 1949.
61 of 1956	Wheat Pool Act Amendment Act, 1956.
67 of 1961	Wheat Pool Act Amendment Act, 1961.
18 of 1962	Grain Pool Act Amendment Act, 1962.
8 of 1966	Grain Pool Act Amendment Act, 1966.

Reference in First Schedule of Act Number 113 of 1965 (Decimal Currency Act, 1965) to Marketing of Barley Act, 1946.

Parts II, III and IV of Act Number 69 of 1973 (Metric Conversion (Grain and Seeds Marketing) Act, 1973).

SECOND SCHEDULE.

S. 9.

Zones for Election of Directors.

1. In this Schedule—

“certified” means certified in a statutory declaration made by the person who was, on the date on which this Act received the Royal Assent, the chairman of the Trustees as defined in section 2 of the Grain Pool Act, 1932, or, if the office of such chairman was vacant on that date, certified in a statutory declaration made by the person who was last appointed before that date as deputy chairman of such Trustees; and

“districts” identified by numbers means such districts as are certified to have been, on the date on which this Act received the Royal Assent, Growers’ Council Districts with corresponding numbers under the Grain Pool Act, 1932.

2. The zones for Election of Directors are as follows—

Zone 1 comprises districts 1, 2, and 3.

Zone 2 comprises districts 4, 5, and 6.

Zone 3 comprises districts 7, 8, and 9.

Zone 4 comprises districts 10, 11, and 12.

Zone 5 comprises districts 13, 14, and 15.

Zone 6 comprises districts 16, 17, and 18.

Zone 7 comprises districts 19, 20, and 21.

3. The zones set forth in clause 2 of this Schedule shall remain in force for at least a period of five years after the date of the coming into operation of this Act but if at any time after the expiration of such period the Board specifies by an instrument in writing delivered to the Minister alterations to the zones that the Board considers necessary and desirable for the proper administration of this Act, such alterations may be made by regulation and thereupon the zones as so altered are the zones for the election of Directors.

THIRD SCHEDULE.

S. 44.

Rules for Constitution of Producers’ Council.

Interpreta-
tion.

1. (1) In these Rules—

“Australian Wheat Board” means the Australian Wheat Board or the other Board for the time being in existence for the purpose of acquiring wheat under the wheat stabilisation Acts in force on the date of the coming into operation of this Act, or any Act or Acts passed in lieu of or in substitution for such wheat stabilisation Acts or by way of extension of the period of operation thereof;

“certified” means certified in a statutory declaration made by the person who was, on the date on which this Act received the Royal Assent, the chairman of Trustees as defined in section 2 of the Grain Pool Act, 1932, or, if the office of such chairman was vacant on that date, certified in a statutory declaration made by the person who was last appointed before that date as deputy chairman of such Trustees;

“grain” means wheat, oats, linseed and such cereal grain and other seed as is for the time being capable of being pooled with the Grain Pool;

“marketable grain” means the whole of the grain after deducting what in the opinion of the Board of Directors of the Grain Pool is a reasonable quantity of grain for seeding purposes and domestic and farm use;

“producer” in rules 5 and 7 includes a grower within the meaning of Rules for the Constitution of Growers’ Council as provided under the Grain Pool Act, 1932 immediately prior to the date of the coming into operation of this Act; and

“rule” means one of these rules.

(2) For the purposes of these rules, grain is pooled with the Grain Pool in the case of wheat when the producer has appointed the Grain Pool as his or its Documentary Agents under the Australian Wheat Board or any Western Australian Wheat Board or other marketing authority under any Western Australian Act or has himself or through any agent or mortgagee delivered the wheat to any Wheat Pool conducted by the Grain Pool and in the case of oats or other grain when the producer has himself or through any agent or mortgagee delivered the oats or other grain to any pool conducted by the Grain Pool.

2. (1) The grain growing areas of Western Australia are divided into twenty-one districts as defined by the Board of Directors of the Grain Pool with the approval of the Producers’ Council but the boundaries may be changed from time to time as the Board and the Producers’ Council may think fit.

Grain areas to be divided into 21 Districts.

(2) On the coming into operation of this Act the twenty-one districts referred to in subrule (1) of this rule are such districts as are certified to have been, on the date on which this Act received the Royal Assent, Growers’ Council Districts under the Grain Pool Act, 1932.

3. One councillor shall be elected for each district by producers qualified in such district, in manner hereinafter appearing, and the councillors so elected and the *ex officio* councillor referred to in subsection (2) of section 43 of this Act shall constitute the Producers’ Council.

Election of councillors.

4. A person qualifies as a producer for the purposes of these rules if—

Qualification of producers.

(a) he is a producer in any district who, or is a member of any partnership which, has pooled with the Grain Pool any part of his or its marketable grain of the previous season as was capable of being pooled with the Grain Pool;

- (b) he is a person who, whilst not an actual producer of grain (capable of being pooled with the Grain Pool) shall satisfy the Board of Directors of the Grain Pool that he is financing any of his family or relations in the working and development of a grain farm in any district; such person or persons so financed being himself, herself, or themselves qualified as a producer or producers, but it shall be a condition precedent to the qualification of such person that the approval of the actual producer or producers in writing to such membership shall be lodged with the Board of Directors of the Grain Pool prior to such person exercising any right as a producer, and the actual producer or producers shall not, until such approval has been in writing withdrawn, be entitled to exercise any rights under these rules; or
- (c) in respect of the first season after the date of coming into operation of this Act, he is a producer in any district who, or is a member of any partnership which, has delivered grain in the previous season to any Statutory Marketing Authority under the Acts repealed by this Act.

Qualifica-
tion of
councillors.

5. Qualification for an elected councillor shall be that he or any limited company of which he is a director or attorney has been a producer during at least three of the five seasons immediately preceding the year of his election.

Vacancy in
office of
councillor.

6. (1) The seat of any elected councillor shall be declared vacant in any of the following cases—

- (a) if he or any partnership or company he represents shall not during any one season whilst he is a councillor be a producer;
- (b) if he shall become bankrupt or be declared of unsound mind;
- (c) if he shall die or resign or be appointed a Director;
- (d) if he or any such partnership or company as aforesaid shall cease to produce marketable grain in the State of Western Australia;
- (e) if he shall be absent without leave of the Producers' Council from two consecutive meetings;
- (f) if being an approved producer under paragraph (b) of rule 4 he shall cease to retain any substantial financial interest in his relative's farm; or
- (g) if he attains the age of seventy-two years but so that his seat becomes vacant on the next thirtieth day of November thereafter.

(2) The Board of Directors of the Grain Pool shall alone be entitled to decide on the facts submitted to them by the approved producer or the actual producer or producers as to whether in the case mentioned in paragraph (f) of subrule (1) of this rule such councillor retains a substantial financial interest or not, and their decision shall not be liable to be questioned.

7. (1) A candidate for election to the Producers' Council must be nominated by five persons each of whom has been a producer for two of the preceding four seasons, and has grain producing interests in the district for which the candidate is nominated, and such nomination shall be lodged with the Grain Pool not later than the thirtieth day of September in each year.

Nomina-
tion of
candidates
for election
to the
Producers'
Council.

(2) Nomination papers shall be in such form as may be prescribed by the Board of Directors of the Grain Pool.

8. If only one qualified candidate is nominated for any district the Board of Directors of the Grain Pool shall declare him elected.

Provision
where
only one
candidate.

9. (1) The Board of Directors of the Grain Pool shall during the month of October in each year post to the persons understood to be producers, or potential producers in the various districts where in each case more than one candidate is nominated a voting form containing the names of the persons so nominated as councillors for the district in which such producer is entitled to vote, and such voting form shall contain instructions as to the mode of voting, and shall contain also a declaration to be signed by (or in the case of a limited company or partnership on behalf of) the producer verifying his or its qualifications as a producer.

Method of
voting for
Council.

(2) Such voting forms, duly signed by the producer (or in the case of a limited company or partnership by the person voting on its behalf), and with such declaration as aforesaid, shall be enclosed in an envelope addressed to the Grain Pool, and on the face of such envelope shall appear the words "Voting Form"; and such envelope shall be delivered to the Grain Pool or posted so as to reach the Grain Pool not later than the fifteenth day of November in each year, and, when received, shall be placed in a box or receptacle, unopened, until such day, not being later than the thirtieth day of November, as the Board of Directors of the Grain Pool shall appoint for the opening of such envelopes.

(3) The Grain Pool shall notify its auditor of the date, time, and place fixed for the counting of such voting forms, and at the time so appointed, and in the presence of the auditor or his representative, such envelopes shall be opened, and the voting for each district ascertained.

(4) Where only two persons are nominated the person who on such counting shall receive the greater number of votes shall be declared to be elected and, in the case of an equality of votes, the councillor to be appointed shall be decided by lot in accordance with such conditions as the Producers' Council may prescribe.

(5) Where more than two persons are nominated the voting and counting shall be carried out on such preferential basis as the Board of Directors of the Grain Pool may determine.

Only one
vote for
each
producer.

10. (1) No producer shall have more than one vote nor vote in respect of more than one district provided that an individual who is entitled to a vote in his own right and also seeks to vote on behalf of a company or a partnership can vote in each such capacity.

(2) The vote of a limited company shall be exercised by one of its Directors or Attorneys.

(3) The vote of a partnership shall be exercised by any of its members.

(4) Before becoming entitled to vote at any election for councillors every producer who is a producer of grain in more than one district and every limited company or partnership as aforesaid shall deposit with the Grain Pool a notification in writing duly signed by him or on its behalf signifying the district in respect of which he or it desires to exercise his or its right to vote and in the case of a limited company or partnership the name of the person who has been authorized by it to exercise such vote.

Retire-
ment of
councillors.

11. (1) On every thirtieth day of November after the date of the coming into operation of this Act one-third of the elected councillors for the time being or the number nearest one-third, shall retire from office, and if then qualified shall be eligible for re-election.

(2) The elected councillors to retire in every year after the date of the coming into operation of this Act shall be those who have been longest in office since their last election, but as between councillors who were elected at the same time, those to retire shall (unless otherwise agreed among themselves) be determined by lot.

Meetings of
Producers'
Council.

12. (1) The Producers' Council shall meet as and when necessary at such times and at such place or places, not less than twice in each year, and such meetings shall be convened on such notice and in such manner as the Board of Directors of the Grain Pool and the Producers' Council shall from time to time decide but one of such meetings shall be held in the month of July in each year.

(2) The *ex officio* councillor shall be chairman of each meeting unless the Producers' Council wishes to elect one of its own members as Chairman.

(3) Ten councillors present shall constitute a quorum at any meeting, and all votes shall be given and taken either by a show of hands or ballot, as the meeting may decide, the chairman has a deliberative vote only and, if the councillors present at a meeting and voting on a question are equally divided, the question shall be decided in the negative.

13. Any casual vacancy occurring in the office of an elected councillor may be filled at any meeting of the council by a majority vote of those present thereat, provided that the person to be so appointed shall be properly qualified as required by rule 5, and such person shall hold office until the date on which the person in whose place he is appointed would have retired under rule 11 had such person not earlier vacated office under rule 6 and shall be one of the councillors to retire on such date under rule 11.

Casual
vacancy in
office of
elected
councillors.

FOURTH SCHEDULE.

S. 45.

1. Of the first two persons nominated by the Minister to be Directors—

- (a) one shall be appointed as a Director for a period up to and including the 31st July, 1977; and
- (b) one shall be appointed as a Director for a period up to and including the 31st July, 1979.

2. The persons whose names, addresses, and occupations appear in the first column at the end of this clause shall be Directors, and shall be deemed to have been elected for the zones respectively assigned to them in the second column at the end of this clause, and shall hold office as Directors up to and including the dates respectively set out for them in the third column at the end of this clause, notwithstanding that no person is hereby deemed to have been elected for zones 1 and 5, that three persons are hereby deemed to have been elected for zone 7, and that two persons are hereby deemed to have been elected for zone 6.

Name, Address and Occupation	Zone	Date up to and including which office is held
John Barns Ackland Box 91 WONGAN HILLS 6603 Farmer	2	31st July, 1978
Marcus Truby Beeck Box 110 KATANNING 6317 Farmer	6	31st July, 1977

FOURTH SCHEDULE—*continued.*

Name, Address and Occupation	Zone	Date up to and including which office is held
Verdun Leonard Garnett Box 61 GNOWANGERUP 6335 Farmer	7	31st July, 1977
Robert Ernest Buegge Box 43 BRUCE ROCK 6418 Farmer	3	31st July, 1978
Ray Neil St Jack 23 Fraser Street YORK 6302 Farmer	4	31st July, 1978
Kevin John Milne "Yardup" BORDEN 6338 Farmer	7	31st July, 1977
Edward Bernard Norris "Carinya" Box 85 ESPERANCE 6450 Farmer	7	31st July, 1977
Jerry Gordon Enright "Middlecreek" MT BARKER 6324 Farmer	6	31st July, 1977

3. In the respective years set out in the first column at the end of this clause, within a reasonable time before the 1st August in those years, elections shall be held in accordance with the regulations to elect one prescribed producer for appointment as Director for each of the zones respectively set out in the second column at the end of this clause, and the prescribed producers elected respectively for those zones shall be appointed Directors for a period of four years commencing on the 1st August in the year in which they were elected.

1976	Zones 1 and 5
1977	Zones 6 and 7
1978	Zones 2, 3 and 4
1980	Zones 1 and 5
1981	Zones 6 and 7
1982	Zones 2, 3 and 4.
