



Western Australia

## **Wheat Products (Prices Fixation) Act 1938**

Compare between:

[01 May 2005, 00-d0-02] and [04 Jul 2006, 00-e0-05]



## Wheat Products (Prices Fixation) Act 1938

**An Act to provide for the regulation of prices of flour and certain other products of wheat sold in Western Australia and for purposes incidental thereto.**

~~[Assented to 1 December 1938.]~~

### Preamble

Whereas at a conference of State Premiers held in Sydney on the twenty-sixth day of August, one thousand nine hundred and thirty-eight, it was resolved that action should be taken to ensure wheatgrowers a payable price for their product: And whereas the Commonwealth has agreed to co-operate with the States in making legislative provision for a scheme for securing a home consumption price for wheat products: And whereas for the purpose of the said scheme it is desirable that provision should be made for fixing the price of wheat products as hereinafter provided: Be it therefore enacted —

#### 1. Short title

This Act may be cited as the *Wheat Products (Prices Fixation) Act 1938*.

#### 2. Commencement

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

**3. Construction**

This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the state to the intent that where any provision of this Act would, but for this section, be in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

**4. Interpretation**

In this Act, unless the context otherwise require —

**“Committee”** means the Wheat Products Prices Committee constituted pursuant to this Act.

**“Flour”** means any substance produced —

- (a) by gristing, crushing, grinding, milling, cutting, or otherwise processing wheat or by any one or more of those processes applied to wheat combined with, any other commodity;
- (b) by the sifting or screening of or any mechanical operation applied to substances so produced; or
- (c) by the combination of any of the operations specified in the list two preceding paragraphs.

The term includes —

- (d) in mixture of any such substances; and
- (e) self-raising flour

but does not include any substance for use —

- (i) as or in the manufacture of breakfast foods or foods for birds or livestock; or
- (ii) in the manufacture of cornflour or of any other goods not being foodstuffs.

**“Minister”** means the Minister of the Crown for the time being and from time to time charged with the administration of this Act.

**“Person”** includes any body of persons corporate or unincorporate.

**“Sell”** includes agree to sell, and offer for sale.

**“Ton”** means 1 ton of two thousand pounds gross weight including the weight of any bags or packages.

**“Wheat products”** means flour, bran, pollard, and bread and such other substances introduced by grinding, crushing, grinding, milling, cutting or otherwise processing wheat as are declared by proclamation to be wheat products.

**5. Declaration of wheat products**

- (1) The Governor may from time to time by proclamation declare any substance produced by gristing, crushing, grinding, milling, cutting or otherwise processing wheat to be a wheat product for the purposes of this Act, and may from time to time vary or revoke any such proclamation by a subsequent proclamation.
- (2) The Governor may by proclamation alter the interpretation of flour as set out in section four of this Act so as to coincide with the interpretation of flour set out in any Commonwealth Act imposing a tax on flour, and this Act shall be read and construed and take effect accordingly.

**6. Wheat Products Prices Committee**

- (1) For the purposes of this Act the Governor may from time to time constitute a committee to be known as the “Wheat Products Prices Committee”.
- (2) The committee shall consist of a chairman and two other members, all appointed by the Governor.

*[Section 6 amended by No. 84 of 1964 s.2.]*

**7. Tenure of office**

The chairman and members of the committee shall hold office for such terms as are fixed by the instrument of their appointments.

**8. Dismissal of members**

The Governor may dismiss the chairman or any other member of the committee from his office —

- (a) if, in the opinion of the Governor, he is, owing to mental or physical infirmity incapable of discharging the duties of his office; or
- (b) if he has been guilty of any crime or other conduct which, in the opinion of the Governor, makes it undesirable that he should continue to be a member of the committee.

**9. Notification of appointment and dismissal**

- (1) Every appointment and every dismissal of the chairman or of a member of the committee shall be notified in the *Government Gazette*.
- (2) Every such appointment and every such dismissal shall take effect as from the date specified in the notification thereof.

**10. Chairman of meeting**

At any meeting of the committee the chairman, if present, and in his absence the member who is senior in appointment, shall preside.

**11. Quorum and voting**

- (1) The chairman and any member of the committee or the two members other than the chairman shall form a quorum thereof.
- (2) The chairman and every member of the committee shall have a deliberative vote on every question before the committee, and in the event of the votes for and against any proposal being equal the chairman of the meeting shall have a casting vote.

**12. Payments to chairman and members**

The chairman and members of the committee may, out of moneys provided by Parliament for the purpose, be paid such fees, allowances and expenses as may be prescribed.

**13. Functions of Committee**

- (1) The committee shall exercise the function conferred upon it by this Act or by regulations made under this Act.
- (2) So far as may be necessary or expedient the committee shall exercise its said functions in co-operation with or after consultation with such authorities of the Commonwealth and of the other States as may be prescribed.
- (3) The committee may conduct any injury inquiry which it thinks will assist it in making any recommendation for the purposes of this Act, and in relation to and for the purposes of such inquiry, shall have all the powers of a Royal Commission under the *Royal Commissioners' Powers Act 1909*.

**14. Returns as to wheat products**

- (1) The Minister may, by notice in writing, require any person to furnish him in writing with any particulars as to the quantity, price or value of any wheat or wheat products bought, sold, manufactured or held in stock by that person, whether before or after the commencement of this Act.
- (2) Every such notice shall specify the time within which the particulars are to be furnished to the Minister and may require the particulars to be verified by a statutory declaration.
- (3) Any person who in any particular fails to comply with a notice under this section or furnishes any false particulars shall be guilty of an offence against this Act.

Penalty: Two hundred pounds.

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- (4) This section shall not restrict the power of the Governor under this Act to make regulations for securing information as to wheat or wheat products.

**15. Power to fix prices**

- (1) The Governor may from time to time, on the recommendation of the committee, by proclamation —
- (a) fix the minimum price at which any of the substances included in the definition of flour or in the definition of wheat products may be sold in the State or in any specified part of the State by the manufacturer thereof or by any other person; and
  - (b) fix the maximum price at which any of the substances included in the definition of flour or in the definition of wheat products may be sold in the State or in any specified part of the State by any person.
- (2)
- (a) In no case shall the minimum price fixed under subsection (1) of this section for best bakers' wheaten flour delivered on the buyer's premises at Perth in bags, packages or containers, each of which contains approximately one hundred and fifty pounds weight, be less than eleven pounds per ton.
  - (b) In no case shall the maximum price fixed under subsection (1) of this section for best bakers' wheaten flour so delivered be more than thirteen pounds ten shillings per ton.
- (3) Any price fixed under this section for any substance may vary having regard to —
- (a) the place of delivery to the buyer;
  - (b) the locality of the State in which the substance is sold or delivered;
  - (c) the quantities in which the substance is sold;
  - (d) whether the substance is sold by wholesale or retail;



- (e) the nature of the bags, packages or containers in which the substance is sold;
  - (f) the quality, grade or variety of the substance; and
  - (g) any other matters or circumstances.
- (4) No price fixed under this section shall apply to any substance sold for export from Australia.
- (5) The Governor may from time to time revoke or vary any proclamation under this section by a subsequent proclamation.
- (6) Any proclamation under this section shall take effect from the date of publication in the *Government Gazette* or from a later date specified in the proclamation and shall remain in force for the period, if any, specified therein, and, if no period is so specified, shall, subject to any variation made by a subsequent proclamation, remain in force until revoked.
- (7) Any proclamation under this section may contain therein a provision for exempting or excluding from the application or operation of such proclamation, for reasons to be specified in such provision, any flour or other wheat product in relation to which prices are fixed by the proclamation notwithstanding that the flour or other wheat product so exempted or excluded is sold within the State.

**16. Penalty for selling substance higher than the maximum or lower than the minimum price**

- (1) If any person sells any substance at a price which is greater than the maximum price or less than the minimum price which, by any proclamation for the time being in force under this Act in relation to such substance is applicable to such sale, he shall be guilty of an offence against this Act.  
Penalty: Five hundred pounds.
- (2) In the case of a sale above the maximum price as aforesaid, in addition to the penalty imposed under subsection (1) of this section, the seller shall be liable to refund to the purchaser the

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difference between the maximum price aforesaid and the price at which such substance was sold.

- (3) Any person who aids, abets, counsels, procures, or is in any way knowingly concerned in the commission of an offence under this section shall be deemed to have committed that offence and shall be punishable accordingly.
- (4) This section shall not apply to the sale of any substance sold for export from Australia.
- (5) In any proceedings for an offence under this section —
  - (a) the production of any return furnished under this Act or the regulations and purporting to be signed by or on behalf of any person required or authorized by this Act or the regulations to furnish such return shall be *prima facie* evidence of the particulars given in the return, and that such return was made by the person by whom it purports to be signed;
  - (b) The onus of proving any facts necessary to show that any substance or any sale of a substance is a substance or a sale of a substance to which this section does not apply shall lie upon the defendant.

**17. Determination and promulgation of quota**

- (1) In this section —

**“Public notice”** means notice published in the *Government Gazette* and in a newspaper published in Perth.

**“Quota”** means the proportion of a substance manufactured in this State by a manufacturer of such substance which such manufacturer may be permitted to sell in this State for the use of consumers thereof in this State.
- (2) The Governor may, on the recommendation of the committee, from time to time, after ascertaining that the supply and distribution of any substance included in the definition of flour under this Act to consumers thereof in the State will be ensured,

determine what is to be the quota for the purposes of this section in relation to such substance; and by public notice promulgate the same. The quota so determined and promulgated shall remain in force until the Governor, by public notice, cancels the prior notice by which the quota was promulgated.

- (3) No manufacturer of the substance in relation to which the quota has been determined and promulgated as aforesaid shall, whilst such quota remains in force as aforesaid, sell within the State for local consumption any of the substance manufactured by him as aforesaid in excess of such quota.

Penalty: Five hundred pounds.

**18. Inspection of books, etc.**

- (1) Any officer of the Public Service of the State authorized in writing by the Minister in that behalf may inspect any books, accounts, registers, records, documents or writings which are in the custody or control of any person carrying on the business of gristing, manufacturing or preparing or of buying or of selling any flour or any wheat product and which relate to such business, and may take notes, copies or extracts thereof or therefrom.
- (2) For the purposes of subsection (1) of this section, any officer aforesaid may at any reasonable time enter any premises in which he believes any such books, accounts, registers, records, documents or writings are kept.
- (3) Any person who obstructs, hinders, prevents or interferes with any officer so authorized in the exercise of the powers conferred upon him by this section, or who, when requested so to do by such officer, refuses or neglects to produce any such books, accounts, registers, records, documents or within, shall be guilty of an offence against this Act.

Penalty: Five hundred pounds.

*[Section 18 amended by No. 14 of 1929 s.2.]*

**19. Penalties**

- (1) Any person contravening any of the provisions of this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding one hundred pounds.
- (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.

*[Section 19 amended by No. 59 of 2004 s. 141.]*

**20. Arrangement for payment to wheat growers of moneys paid to State by Commonwealth for that purpose**

The Governor may arrange with the Governor General of the Commonwealth for the distribution to wheat growers within the State of any moneys granted to the State by the Commonwealth by way of financial assistance in accordance with the conditions subject to which the moneys are granted, and the Consolidated Fund is hereby to the necessary extent appropriated accordingly.

*[Section 20 amended by No. 6 of 1993 s.12.]*

**21. Regulations**

- (1) The Governor may make, regulations not in consistent with this act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may prescribe penalties not exceeding fifty pounds for any breach of the regulations or failure to comply therewith.

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**Notes**

- <sup>1</sup> This is a compilation of the *Wheat Products (Prices Fixation) Act 1938* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>Wheat Products (Prices Fixation) Act 1938</i>	17 of 1938	1 Dec 1939	5 Dec 1938 (see s. 2 and <i>Gazette</i> 8 Dec 1938 p.2087)
<i>Wheat Products (Prices Fixation) Act Amendment Act 1939</i>	14 of 1938	22 Nov 1939	22 Nov 1939
<i>Wheat Products (Prices Fixation) Act Amendment Act 1964</i>	84 of 1964	14 Dec 1964	14 Dec 1964
<i>Financial Administration Legislation Amendment Act 1993 s. 12</i>	6 of 1993	27 Aug 1993	1 July 1993 (see s. 2(1))
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<u><a href="#">This Act was repealed by the Statute Law Revision Act 2006 s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)</a></u>			