

BULK HANDLING.

2° Elizabeth II., No. LI.

No. 51 of 1953.

AN ACT to amend the Bulk Handling Act,
1935-1952.

[Assented to 9th January, 1954.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the *Bulk Handling Act Amendment Act, 1953*.

(2) In this Act the Bulk Handling Act, 1935-1952, Act No. 40 of 1935 reprinted with the Second Schedule as amended by Orders in Council

date the thirtieth day of January, 1936, and the thirteenth day of November, 1936, in the Appendix to the Sessional Volume of Acts, 1936, and further amended by Acts Nos. 22 of 1943, 2 of 1946, 80 of 1948, 13 of 1950 and 47 of 1952 and as to the Second Schedule by Orders in Council dated the eighth day of December, 1937, the twenty-fourth day of November and the twenty-first day of December, 1938, the sixteenth day of August and the twenty-ninth day of September, 1939, the twenty-sixth day of February, 1941 and the sixth day of March, 1942,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Bulk Handling Act, 1935-1953.

2. The long title of the principal Act is amended by adding after the word "Wheat" in line one the words, "Barley and Oats", and also adding after the word, "Limited" in line two the words, "and for other purposes". Long title amended.

3. The principal Act is amended by adding after section twenty-seven the following heading and sections:— New sections 27A-27F added.

*Special Provisions relating to the Receipt
of Barley and Oats by the Company.*

27A. For the purposes of the provisions of the sections under this heading— Interpretation.

"Company" has the same meaning as the interpretation, "Company" in section two of this Act;

"country bins" has the same meaning as the interpretation "Country bin" has in section two of this Act;

"grower" includes the legal personal representative of a deceased person; a trustee; the liquidator of a company; and a person entitled to a share of a barley or oat crop under a share farming agreement;

“warrant” means a warrant issued by the Company under this Act authorising the holder to receive a specified quantity and grade of barley or oats from the Company.

Contracts and arrangements for bulk handling of barley and oats subject to following sections under this heading.

27B. (1) The Company has the right of receiving barley and oats in bulk at railway stations and sidings where the Company has installed country bins under this Act and the right to contract or arrange for the handling, transport and delivery of the barley and oats in bulk in the State.

(2) The provisions of the sections under this heading apply in respect of a contract or an arrangement entered into by the Company for the receipt, storage, transport or delivery in bulk of barley and of oats and subject to those provisions the terms and conditions of the contract or arrangement may be determined by the parties to it.

(3) Except as provided in the last preceding subsection, the contract or arrangement is not subject to any other provisions of this Act or of the Second Schedule to this Act save and except such provisions as are expressly made to apply to it and then only to the extent to which they are expressly declared by this Act to apply.

Various types of grain to be segregated.

27C. The Company shall at all times take and use all reasonable precautions to ensure that wheat, barley, and oats entrusted to its care under the provisions of this Act are kept segregated from each other.

Conditions on which barley and oats received by Company.

27D. (1) The receipt, storage, transport or delivery in bulk of barley or oats by the Company does not confer on the Company any proprietary right or interest in the barley or oats or render the barley or oats liable to seizure or attachment for the debts and obligations of the Company.

(2) The position of the Company in law in relation to the barley or oats is that of a custodian for reward.

(3) The proprietary right in the barley or oats is to be regarded as vested in all persons, who for the time being are entitled to obtain barley or oats from bulk stocks of it which are held by the Company or which are under its control.

(4) The holder of a warrant is, subject to any variations allowed by the relative contract or arrangement in connection with the barley or oats, entitled to receive an equivalent quantity of sound barley or oats as the case may be of a grade at least equal to that in respect of which the warrant was issued, but not the identical barley or oats.

27E. The provisions of sections fourteen, fifteen, sixteen, eighteen, twenty-two, twenty-three and twenty-seven of this Act apply *mutatis mutandis* to all barley and oats received, stored, transported or delivered in bulk by the Company.

Application
of sections
14, 15, 16, 18,
22, 23 and 27
to barley
and oats.

27F. (1) Subject to the provisions of the next succeeding subsection, the provisions of sections twenty-six A and twenty-six B of this Act apply *mutatis mutandis* to all barley and oats delivered to the Company as though the barley and oats so delivered were wheat.

Application
of sections
26A and 26B
to barley and
oats.

(2) In respect to the application of the provisions of sections twenty-six A and twenty-six B of this Act to all barley and oats delivered to the Company, subsection (2) of section twenty-six A is to be altered to read—

(2) Every holder of a warrant on surrendering it to the Company shall pay the toll to the Company but during the operation of any Act whether of the Commonwealth or of the State which provides for a compulsory pool or pools in respect of the barley or oats, the toll is—

(a) payable by and recoverable from the grower to whom it is to be credited pursuant to the provisions of the next succeeding subsection; and

- (b) including all arrears of tolls, a first charge in priority to all other claims on the moneys payable under the provisions of that Act in respect of the barley or oats.

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