

Western Australia

**Carnarvon Banana Industry
(Compensation Trust Fund) Act 1961**

As at 25 Oct 1996

Version 01-m0-02

Extract from www.slp.wa.gov.au, see that website for further information

Carnarvon Banana Industry (Compensation Trust Fund) Act 1961

CONTENTS

1.	Short title	1
2.	Commencement	1

Part I — Preliminary

5.	Interpretation	2
6.	Administration	3

Part II — The Committee Compensation

7.	The Carnarvon Banana Industry Compensation Committee constituted	4
8.	Committee to be a body corporate	5
9.	Notification of appointment of members of Committee, and tenure of office	6
10.	Vacancies in office	7
11.	Deputies	7
12.	Remuneration and expenses of members and deputies	7
13.	Convening of meetings	7
14.	Determination of questions at meetings	8
15.	Acts of Committee not invalidated by vacancy	8
16.	Proceedings of Committee	8

Part III — Compensation Trust Fund

17.	The Carnarvon Banana Industry Compensation Trust Fund established	9
18.	Treasurer may make advances to Fund to meet deficiency	10
19.	Contributions to the Fund	10
20.	Wholesaler to deduct contributions from moneys payable to grower	11
21.	Failure by wholesaler to deduct contributions an offence	12
22.	Excess contributions may remain in Fund to credit of grower	12
23.	Contribution to Fund by Treasurer	13

Part IV — Compensation

24.	Application of moneys in Fund	14
25.	When compensation payable	14
26.	Extent of loss to be assessed	16
27.	Amounts of compensation payable	16
28.	Application for compensation	17
29.	Provisions for payment of compensation	18

Part V — Miscellaneous

30.	Secretary, inspectors and other officers may be appointed	20
31.	Obstructing or hindering officers an offence	20
32.	Annual return by grower	21
33.	Committee may require returns to be furnished	21
34.	Entry and inspection	22
35.	Application of <i>Financial Administration and Audit Act 1985</i>	22
37.	General penalty	22
38.	<i>Prima facie</i> evidence of certain matters	23
39.	Proceedings to be taken summarily	23
40.	Regulations	23

41. Review of the Act

24

The Schedule

NOTES

Carnarvon Banana Industry (Compensation Trust Fund) Act 1961

An Act to establish a Trust Fund for the payment of Compensation in the event of loss to growers of bananas in the local government district of Carnarvon; to provide for the administration of that Trust Fund and the application of the moneys from time to time therein; and for other and incidental purposes.

[Long title amended by No. 59 of 1980 s.3; No. 14 of 1996 s.4.]

[Assented to 4 December 1961]

Be it enacted —

1. Short title

This Act may be cited as the *Carnarvon Banana Industry (Compensation Trust Fund) Act 1961*.

[Section 1 amended by No. 59 of 1980 s.4.]

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation.¹

[3. Repealed by No. 21 of 1989 s.4.]

Part I — Preliminary

[4. *Repealed by No. 59 of 1980 s.6.*]

5. Interpretation

In this Act unless the context requires otherwise —

“**bananas**” includes banana plants while in course of growth;

“**carton**” means a container having a capacity prescribed under section 19 (1a) (a), when used for the packing and marketing of bananas;

“**Committee**” means the Carnarvon Banana Industry Compensation Committee constituted under this Act;

“**Department**” means the Government Department of the State known as the Department of Agriculture³;

“**Fund**” means the Carnarvon Banana Industry Compensation Trust Fund established under this Act;

“**grower**” means a person produces in the local government district of Carnarvon bananas for sale;

“**sale**” includes barter and exchange;

“**wholesaler**” means any person who —

- (a) purchases bananas from a grower wholesale for resale; or
- (b) receives bananas from a grower for sale wholesale on behalf of that grower; or
- (c) being a grower, himself sells wholesale or sells retail in an one year not less than one hundred cartons of bananas produced by him; or
- (d) purchases bananas wholesale for resale after some method of treatment which renders them saleable in an altered form or condition.

[Section 5 amended by No. 16 of 1969 s.2; No. 94 of 1972 s.4; (as amended by No. 19 of 1973); No. 31 of 1975 s.3; No. 59 of 1980 s.7; No. 21 of 1989 s.5; No. 14 of 1996 s.4.]

6. Administration

Subject to the direction and control of the Minister, the chief executive officer of the Department shall administer this Act except Part III of this Act.

[Section 6 amended by No. 21 of 1989 s.6.]

Part II — The Committee Compensation

[Heading amended by No. 59 of 1980 s.5.]

7. The Carnarvon Banana Industry Compensation Committee constituted

- (1) For the purposes of this Act a Committee having the functions prescribed by this Act is constituted under the name of “The Carnarvon Banana Industry Compensation Committee”.
- (2) The Committee shall consist of four members, who shall be appointed by the Governor, and of those members —
 - (a) one shall be an officer of the Department nominated by the minister, which officer shall be the chairman of the Committee;
 - (b) one shall be an officer of the State Treasury nominated by the Minister; and
 - (c) subject to paragraph (b) of subsection (3) of this section, two shall be persons who are growers and are elected by the growers for appointment by the Governor as such members to be and Act as the representatives of the growers.
- (3) (a) The election of the elective members of the Committee shall be held and conducted in such manner, at such times and subject to such conditions as are prescribed by regulations, and the first such election shall be held and conducted not later than six months after the coming into operation of this Act.

- (b) Until the first election of the elective members pursuant to paragraph (a) of this subsection and their appointment by the Governor as members of the Committee, the offices of those members shall be filled by persons who are growers and are nominated by the Minister, and those persons shall be appointed by the Governor to be and Act as members of the Committee until the elective members are elected to those offices.
 - (c) The expenses incurred in connection with the election of the elective members of the Committee shall be a charge upon and be paid out of moneys from time to time in the hands of the Committee for the purposes of this Act.
- (4) Any three members of the Committee form a quorum.
- [Section 7 amended by No. 16 of 1969 s.3; No. 59 of 1980 s.8.]*

8. Committee to be a body corporate

- (1) The Committee is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name, and of doing or suffering all such acts and things as bodies corporate may by law do and suffer.
- (2) All courts and judges and persons acting judicially shall take judicial notice of the common seal of the Committee affixed to a document and presume that it was duly affixed.
- (3) On and after the commencement of the *Banana Industry Compensation Trust Fund Amendment Act 1980*—
 - (a) the body corporate previously constituted under this section by the name “The Banana Industry Compensation Committee” is preserved and continues in existence as a body corporate, under and subject to this Act, by the name “The Carnarvon Banana Industry Compensation Committee”, but so that the corporate identity of the body corporate and its rights, powers, functions, duties, and liabilities are not affected; and

s. 9

- (b) a reference made before the commencement of that Act to the Committee under the name by which it was then known shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Committee.

[Section 8 amended by No. 59 of 1980 s.9.]

9. Notification of appointment of members of Committee, and tenure of office

- (1) The Minister shall cause notice of appointment to the respective offices of members of the Committee to be published in the *Gazette*.
- (2) The term of tenure of office of a person appointed to an office of member of the Committee expires by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the appointment published in the *Gazette* as the commencing date of that term.
- (3) A person is eligible for appointment to the office of member notwithstanding that he has previously occupied office as such.
- (4) The term of tenure of office of a person appointed to the office of member terminates if during the term —
 - (a) he becomes bankrupt, or as a debtor takes advantage of protection or relief under any law for the protection or relief of bankrupt debtors;
 - (b) he absents himself from three consecutive meetings of the Committee, except with permission granted by the Minister who is hereby authorized to grant such permission from time to time;
 - (c) he tenders in writing, signed by him and addressed to the Governor, his resignation from the office and the Governor accepts the resignation, as he is hereby authorized so to do; or

- (d) he dies, or he is through mental or physical infirmity unable satisfactorily to carry out the duties and perform the functions of his office.

10. Vacancies in office

The Governor may fill a vacancy in the office of member that occurs otherwise than by the retirement of a member on the expiration of the term of his office, but the person appointed to fill the vacancy shall hold office only for the unexpired portion of the term of office of the member in whose place he is appointed.

11. Deputies

- (1) Deputies to Act in the respective offices of members of the Committee in the absence of the occupants of those offices may be appointed by the Governor.
- (2) During the absence of a member a deputy appointed under this section is authorized to exercise any power and carry out any duty which the member for whom he is the deputy, if present, could exercise or would be required to carry out under this Act.

12. Remuneration and expenses of members and deputies

The remuneration and travelling and other expenses payable to members of the Committee and to their deputies in respect of their attendances at meetings and carrying out their functions under this Act are such as the Governor determines, and is hereby authorized to determine, from time to time.

13. Convening of meetings

- (1) The chairman of the Committee shall convene the first meeting of the Committee to be held at a time and place to be appointed by him, and the Committee shall meet accordingly and shall hold subsequent meetings at times and places appointed by it.
- (2) The chairman shall preside at the meetings of the Committee.

s. 14

- (3) When the chairman is absent from any meeting, the members present at the meeting shall elect a member from among those present to preside at the meeting, and the person so elected shall, during the absence of the chairman, have all the powers of the chairman.

14. Determination of questions at meetings

- (1) A quorum may exercise any function of the Committee as effectively as if all members were present.
- (2) Where at a meeting of the Committee any question arises for determination by the Committee, each member or deputy present is entitled to and shall exercise one vote only.
- (3) A question arising at a meeting shall be determined by a majority of the valid votes of the members or deputies present.

[(4) Repealed]

[Section 14 amended by No. 16 of 1969 s.4.]

15. Acts of Committee not invalidated by vacancy

An Act or determination of the Committee is not invalid or defective on the ground that when the Act was done or the determination was made, a vacancy existed in the office of a member or deputy, or on the ground of a defect in the appointment of a member or deputy.

16. Proceedings of Committee

The Committee shall conduct its proceedings, and cause to be kept minutes of all its proceedings, in such manner and form as may be prescribed, and until prescribed as the Committee determines.

Part III — Compensation Trust Fund

[Heading amended by No. 59 of 1980 s.5.]

17. The Carnarvon Banana Industry Compensation Trust Fund established

- (1)
 - (a) For the purposes of administering this Act and paying compensation in accordance with the provisions of this Act, there shall be established and kept in the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account to be called the “Carnarvon Banana Industry Compensation Trust Fund.”
 - (b) the Committee shall control the Fund;
 - [(c) deleted]*
- (2) The Fund shall consist of —
 - (a) all moneys received by or for the Committee for contributions in respect of bananas marketed which moneys the Committee shall credit to the Fund;
 - (b) all moneys received from the Treasurer under the provisions of section twenty-three of this Act;
 - (c) moneys advanced by the Treasurer under the authority of section eighteen of this Act;
 - (d) the amount of all penalties recovered in respect of offences against this Act; and
 - (e) any other moneys paid to the Committee under this Act for the credit of the Fund.
- (3) Subject to this Act, the Fund shall be applied for the purposes of administering this Act and to payment pursuant to this Act of claims for compensation.

[Section 17 amended by No. 59 of 1980 s.10; No. 98 of 1985 Schedule 1; No. 49 of 1996 s.64.]

s. 18

18. Treasurer may make advances to Fund to meet deficiency

- (1) Where at any time the moneys standing to the credit of the Fund are for the time being insufficient for the purposes of this Act, the Committee may borrow from the Treasurer moneys sufficient for the time being to make up the deficiency.
- (2) The amount of each such advance shall subsequently be repaid to the Treasurer from moneys standing to the credit of the Fund by the Committee as and when moneys are available to the Committee to make the repayment.
- (3) Moneys advanced by the Treasurer under this section are whilst they remain unpaid a charge on the Fund.
- (4) Any moneys standing to the credit of the Fund until required for the purposes of this Act may with the approval of the Minister be temporarily invested at the request of the Committee by the Treasurer in any securities approved by the Treasurer and the Committee shall cause the interest derived from any investment to be credited to the Fund.

[Section 18 amended by No. 98 of 1985 Schedule 1; No. 49 of 1996 s.64.]

19. Contributions to the Fund

- (1) Subject to this Act every grower shall in every year contribute to the Fund in relation to the bananas produced by him for sale and the amount of the contribution shall be assessed in accordance with subsection (2) of this section and shall be paid by the wholesaler in accordance with section twenty of this Act.
- (1a) For the purposes of this Act, there shall be prescribed —
 - (a) a mass in kilograms (in this section referred to as the “prescribed capacity”) which shall constitute the capacity of a carton; and
 - (b) a sum per carton (in this section referred to as the “prescribed sum”) that does not exceed 3 cents per kilogram of the prescribed capacity.

- (2) The rate of the contribution to be made by growers under this section shall be —
- (a) in respect of every carton of bananas sold or exported for sale by a wholesaler, the prescribed sum; and
 - (b) in respect of every container of bananas, other than a carton, sold or exported for sale by a wholesaler, a sum, calculated to the nearest cent, that bears the same proportion to the prescribed sum, as the mass of the container bears to the prescribed capacity.

[Section 19 amended by No. 16 of 1969 s.5; No. 31 of 1975 s.4; No. 59 of 1980 s.11; No. 21 of 1989 s.7.]

20. Wholesaler to deduct contributions from moneys payable to grower

- (1) Every wholesaler who obtains or receives bananas from a grower for sale or export and is liable to make to the grower any payment, or to account to the grower for any moneys in respect of bananas so obtained or received by him, shall deduct out of the moneys payable by him to the grower or held by him to the credit of the grower and pay to the Committee the amount of the contribution for which the grower is then liable under section nineteen of this Act.
- (2) The wholesaler shall, within fourteen days after the end of each month, prepare a return in the prescribed form showing the quantities of bananas sold or exported by him during that month in respect of each grower and the amounts of contributions deducted by him pursuant to this section, and shall furnish that return and pay the amount so deducted to the Committee.
- (3) The acknowledgment by the Committee of the payment made pursuant to subsection (2) of this section shall be a complete discharge to the wholesaler as against the grower in respect of the amount stated in that acknowledgment.
- (4) The amount of all contributions deducted by a wholesaler in accordance with this section, until paid by him to the

s. 21

Committee, is a debt owing by that wholesaler to the Committee and recoverable at the suit of the Committee from the wholesaler in any court of competent jurisdiction.

21. Failure by wholesaler to deduct contributions an offence

- (1) Any wholesaler who fails or neglects to deduct contributions from moneys payable by him to any grower or held by him to the credit of any grower in accordance with section twenty of this Act, and any wholesaler who having deducted contributions as required by that section fails or neglects or refuses without reasonable excuse to pay such contributions to the Committee at the time or in the manner prescribed, commits an offence against this Act.

Penalty: \$2 000.

- (2) Until such time as the amount of the contribution for which a grower is liable under this Act is received by the Committee from a wholesaler or from the grower himself, the amount of the contribution is a debt owing by the grower to the Committee and recoverable at the suit of the Committee from the grower in any court of competent jurisdiction.

[Section 21 amended by No. 20 of 1989 s.3.]

22. Excess contributions may remain in Fund to credit of grower

If at any time the amount of any contribution received by the Committee in relation to the liability of a grower to contribute under this Act is found to exceed the amount of the contribution for which the grower is then liable, the amount of the excess may remain in the Fund to the credit of the grower against future contributions which may become payable by him, or shall be refunded to the grower by the Committee out of the moneys standing to the credit of the Fund, as the grower by notice in writing to the Committee may elect.

[Section 22 amended by No. 49 of 1996 s.64.]

23. Contribution to Fund by Treasurer

The Treasurer out of moneys appropriated by Parliament for the purpose shall credit to the Fund an amount equal to fifty per centum of the moneys received by or for the Committee in respect of contributions payable pursuant to the provisions of section nineteen of this Act.

[Section 23 amended by No. 49 of 1996 s.64.]

Part IV — Compensation

[Heading amended by No. 59 of 1980 s.5.]

24. Application of moneys in Fund

- (1) The moneys standing to the credit of the Fund shall in the first instance be charged with in payment of —
 - (a) the costs of the administration of this Act; and
 - (b) the remuneration and travelling and other expenses payable to members of the Committee and their deputies pursuant to section twelve of this Act.
- (2) After payment of the costs, remuneration and expenses referred to in subsection (1) of this section, and subject in every case to the approval of the Minister, the moneys standing to the credit of the Fund may be used for, the payment to growers of compensation in accordance with the provisions of this Act.

[Section 24 amended by No. 49 of 1996 s.64.]

25. When compensation payable

- (1) Subject to the provisions of this Act, compensation is payable under this Act to growers in respect of the losses suffered by them by reason of the destruction of bananas as the result of cyclones, storms or floods, or of any natural cause, pest or disease which in the opinion of the Minister constitutes a serious threat to the existence of the banana growing industry.
- (2) The compensation payable under this Act to a grower shall be based on the assessed percentage of damage to bananas in the course of production by the grower on the land of that grower by reference to the area of that land on which the destruction occurs.
- (3) The amount of compensation payable under this Act shall be assessed in relation to the number of cartons of bananas ascertained and determined pursuant to the provisions of subsection (4) of this section to be the weighted average

production of bananas per hectare of the land of the grower whereon the destruction of bananas occurs, and shall be payable, subject to section twenty-seven of this Act, at a prescribed rate per carton according to the extent of the assessed percentage of damage determined pursuant to section twenty-six of this Act.

- (4) For the purposes of this section “**weighted average production**” means the quantity of bananas, expressed in cartons, per hectare land of the grower ascertained by dividing the total number of cartons of bananas produced on that land during the period of five years immediately preceding the calendar year of the loss suffered by the aggregate of the number of hectares of that land utilised to produce the total number of cartons of bananas during that period.

Provided that the quantity so calculated shall not include the production of any year in respect of which compensation has been assessed and paid.

- (5) In any case where a grower is entitled to compensation under this Act and there are no records or information available in respect to the production of bananas on the land of that grower, or if such records or information are available they are, in the opinion of the Committee, inadequate for the purpose of ascertaining and determining the weighted average production, the Committee may assess the amount of compensation payable to that grower in such manner and on such basis as may be prescribed by regulations, and until so prescribed, in such manner and on such basis, and whether in relation to available records and information or not, as the Committee in its absolute discretion thinks fit: Provided that such compensation shall not be assessed at rates greater than those specified in subsection (3) of this section.

[Section 25 amended by No. 29 of 1964 s.2; No. 16 of 1969 s.6; No. 94 of 1972 s.4 (as amended by No. 19 of 1973); No. 31 of 1975 s.5; No. 59 of 1980 s.12; No. 21 of 1989 s.8.]

s. 26

26. Extent of loss to be assessed

- (1) Where a grower claims to be entitled to compensation pursuant to section twenty-five of this Act, the extent of the destruction expressed as a percentage of damage in relation to the area or respective areas in which destruction occurs, of the bananas being produced by him shall be assessed and determined by agreement between a person representing the growers nominated for the purpose by a majority of the growers, and an officer of the Department appointed for that purpose by the chief executive officer of the Department and in default of agreement some competent and impartial person nominated and appointed for the purpose by the Minister shall assess and determine the extent of the destruction.
- (2) The determination of the person nominated and appointed by the Minister is final and conclusive.

[Section 26 amended by No. 29 of 1964 s.3; No. 59 of 1980 s.13; No. 21 of 1989 s.9.]

27. Amounts of compensation payable

- (1) For the purposes of payment of compensation under this Act the extent of the percentage of damage, subject to subsection (2) and subsection (3) of this section, shall be assessed and determined pursuant to the provisions of section twenty-six of this Act on an average basis in relation to the number of hectares of the grower's land on which the destruction occurs, and if such area is less than one hectare then the extent of the destruction shall be so assessed and determined proportionately in relation to that area.
- (2) A grower may suffer a different percentage of damage in relation to different areas of his land and in such case may claim and be entitled to be paid compensation under this Act by reference to the extent of the damage suffered by the respective areas.

- (3) Subject to subsection (3a) of this section, a grower is entitled to be paid compensation under this Act only where the loss suffered by him exceeds ten per centum of the value of the total quantity of bananas in course of production at the time of the loss on the area of his land to which the claim refers, but shall in each case bear the whole of the loss himself if the percentage of damage is assessed at ten per centum or less.
- (3a) Where a grower has bananas in course of production on his land in plantings of different ages, whether the plantings are adjoining or not, he is entitled to be paid compensation in respect of the loss suffered by him on each such planting as if that planting contained the total quantity of bananas in course of production on his land at the time of the loss.
- (4) When in any case a grower is entitled to compensation under this Act and the bananas in respect of which he has suffered loss were not at the time of the loss fully bunched or ready for commercial production, the amount of compensation payable to the grower shall be in accordance with and on the scale set forth in the Schedule to this Act.

[Section 27 amended by No. 29 of 1964 s.4; No. 113 of 1965 s.8; No. 16 of 1969 s.7; No. 94 of 1972 s.4 (as amended by No. 19 of 1973); No. 31 of 1975 s.6; No. 59 of 1980 s.14.]

28. Application for compensation

- (1) Compensation under this Act is not payable unless the grower who suffers loss by destruction of bananas makes application for compensation to the Committee in the manner and containing the particulars prescribed and verified as prescribed.
- (2) Compensation under this Act is not payable unless the grower makes application within thirty days after the destruction of the bananas in respect of which the application is made, but where the application is made after the expiration of that period, the Minister may authorize the payment of the whole or portion of

s. 29

the compensation if he is satisfied that reasonable grounds exist for the delay in making the application.

- (3) Compensation under this Act is not payable unless the Committee is satisfied that the grower who is claiming compensation has complied with the provisions of this Act, and the regulations made under this Act, with respect to applications and claims for compensation.

29. Provisions for payment of compensation

- (1) When growers suffer loss by reason of destruction of bananas and compensation is payable under this Act in respect of that loss, the following provisions shall apply —
- (a) claims for compensation shall be charged to the Fund to the extent to which the money standing to the credit of the Fund is sufficient therefor, and if that money is not sufficient to pay all those claims in full, then they shall be paid *pro rata* according to the amount of money standing to the credit of the Fund and the total amount of compensation payable;
 - (b) to the extent to which the money standing to the credit of the Fund is insufficient to make payment of all claims in full, then the amount of the deficiency required to raise the payments to be made to eighty per centum of the value of the compensation assessed shall be made good by the Treasurer from money standing to the credit of the Consolidated Fund.
- [(c) repealed]*
- (2) Any moneys paid by the Treasurer from moneys standing to the credit of the Consolidated Fund under this section shall not be or be deemed to be advances to the Fund pursuant to section eighteen of this Act and shall not in any way be a charge on the Fund or be repayable to the Treasurer from moneys standing to the credit of the Fund.

*[Section 29 amended by No. 16 of 1969 s.8; No. 94 of 1972 s.4
(as amended by No. 19 of 1973); No. 31 of 1975 s.7; No. 59 of
1980 s.15; No. 50 of 1982 s.2; No. 98 of 1985 Schedule 1;
No. 21 of 1989 s.10; No. 6 of 1993 s.11; No. 49 of 1996 s.64.]*

Part V — Miscellaneous

30. Secretary, inspectors and other officers may be appointed

- (1) The chief executive officer of the Department may appoint a secretary to the Committee and any inspectors and other officers who appear to him on the recommendation of the Committee necessary to enable the Committee to carry out its duties and functions.
- (2) Any officer employed in the Department is eligible for appointment as secretary of the Committee.

[Section 30 amended by No. 21 of 1989 s.11.]

31. Obstructing or hindering officers an offence

A person shall not in any way obstruct, hinder or interfere with, or attempt to obstruct, hinder or interfere with any member of the Committee, any person appointed by the chief executive officer of the Department under section thirty of this Act, or any officer of the Department, in the exercise of any of his powers or functions or the performance of any of his duties under this Act.

Penalty: \$2 000.

[Section 31 amended by No. 20 of 1989 s.3; No. 21 of 1989 s.12.]

32. Annual return by grower

Every grower shall furnish to the Committee within twenty - eight days of being required to do so by notice in writing under the hand of the chairman a return in the prescribed form stating the number of hectares of land utilised by him for producing bananas during the immediately preceding year ended the thirty-first day of December, and the quantity of bananas produced by him during that year.

Penalty: \$1 000.

[Section 32 amended by No. 94 of 1982 s.4 (as amended by No. 19 of 1973); No. 59 of 1980 s.16; No. 20 of 1989 s.3.]

33. Committee may require returns to be furnished

- (1) The Committee may by notice in writing under the hand of the chairman require any grower or wholesaler to furnish in writing to the Committee such returns and particulars in relation to his business as carried on by him under this Act as the Committee deems necessary for the purposes of this Act, and shall specify in the notice a time within which those returns and particulars shall be furnished.
- (2) Any person who fails or refuses to comply with the requirements of any notice given to him pursuant to subsection (1) of this section within the time specified in that notice, or who furnishes any return or particulars which to his knowledge is false in any material particular commits an offence.
Penalty: \$1 000.
- (3) Any return and particulars which the Committee may require to be furnished under this section shall be in addition to the return which the grower is required to furnish under section thirty-two of this Act and to any returns or particulars which growers and wholesalers may be required to furnish in accordance with the regulations.

s. 34

[Section 33 amended by No. 20 of 1989 s.3.]

34. Entry and inspection

- (1) Any member of the Committee and the secretary of the Committee, and any inspector or officer appointed under this Act and authorized in writing in that behalf by the Committee, may inspect any books, accounts, registers, records, documents, papers or writings which are in the possession or control of any grower or wholesaler and which relate to the business carried on by him, and may make such copies thereof and take such notes or extracts therefrom as he thinks fit.
- (2) For the purposes of this section any member, secretary, inspector or officer aforesaid may at any reasonable time enter any premises in which he believes any such books, accounts, registers, records, documents, papers or writings are or are kept.

35. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Committee and its operations.

[Section 35 inserted by No. 98 of 1985 Schedule 1.]

[36. Repealed by No. 98 of 1985 Schedule 1.]

37. General penalty

- (1) A person who —
 - (a) does that which by or under this Act he is forbidden to do; or
 - (b) does not do that which by or under this Act he is required or directed to do; or
 - (c) otherwise contravenes or fails to comply with any provisions of this Act,

commits an offence against this Act.

- (2) A person who is guilty of an offence against this Act is liable on conviction to a penalty or punishment not exceeding that expressly mentioned as the penalty or punishment for the offence, or if a penalty or punishment is not so mentioned, to a penalty not exceeding \$2 000.

[Section 37 amended by No. 20 of 1989 s.3.]

38. Prima facie evidence of certain matters

- (1) In all questions arising under this Act a notice under the hand of an inspector or other officer appointed under this Act is *prima facie* evidence of the truth of the matter contained therein.
- (2) Courts, judges and other persons acting judicially shall take judicial notice of the appointment and signature of the inspector or other officer.

39. Proceedings to be taken summarily

Proceedings for offences against this Act or any regulations made under this Act shall be taken and disposed of summarily under the provisions of the *Justices Act, 1902*.

40. Regulations

The Governor may make regulations not inconsistent with this Act prescribing fees and forms and all matters which by or under this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed, for facilitating the carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this section may make regulations —

- (a) regulating the meetings and proceedings of the Committee;

s. 41

- (b) prescribing the form of common seal of the Committee, the manner in which the seal may be affixed to documents, in whose custody the seal shall be kept, and the manner in which documents issued by the Board may be authenticated;
- (c) prescribing the manner of making and dealing with and the verification of applications for compensation;
- (d) prescribing the manner in which and the basis on which compensation under this Act shall be assessed by the Committee where records and information are not available or are inadequate for the purposes of this Act;
- (e) safeguarding the Fund from claims for compensation which are fraudulent or dishonest;
- (f) prescribing the forms of returns required to be furnished under this Act, the particulars and information which those returns shall contain, and the times when, the periods in respect of which, and the persons to whom returns are to be furnished;
- (g) prescribing, penalties not exceeding \$2 000 in any case for any contravention of or failure to comply with the regulations;
- (h) prescribing all matters and things necessary or convenient to be prescribed with respect to the Fund and the administration thereof; and
- (i) relating to such other matters as may be necessary or convenient for the exercise by the Committee of its functions or for the performance of its duties under this Act.

[Section 41 amended by No. 20 of 1989 s.3.]

41. Review of the Act

- (1) Within a period of 12 months commencing on the 5th anniversary of the day on which the *Carnarvon Banana Industry (Compensation Trust Fund) Amendment Act 1989*

comes into operation, the Minister shall cause an investigation and review to be conducted, and a report to be prepared as to —

- (a) the operation of this Act;
 - (b) the operation of the Committee; and
 - (c) the need for this Act to continue in operation.
- (2) The Minister shall cause a copy of the report prepared for the purposes of subsection (1) to be laid before each House of Parliament as soon as is practicable after it is completed.

[Section 41 inserted by No. 21 of 1989 s.13.]

Sch.

The Schedule

[Section 27 (4)]

Where compensation is payable under this Act in respect of loss by reason of the destruction of bananas not fully bunched or ready for commercial production, the amounts to be paid for compensation shall be a percentage only of the full amount of compensation in accordance with and on the following scale: —

Growing Stage of Plants at date of loss	Age of Plants at date of loss	Percentage of full amount of compensation to be paid
Plants which are not over 760 millimetres in height	Less than three months	30%
Plants which are over 760 millimetres but not 1.52 metres in height	Three to four months	40%
Plants which are 1.52 metres in height and over and up to the bunching stage but having no bunches showing	More than four months and up to nine months	50%
Plants which have reached the stage of early bunching	Ten to twelve months	75%

*[Schedule amended by No. 94 of 1972 s.4 (as amended by
No. 19 of 1973)]*

Notes

- ^{1.} This is a compilation of the *Carnarvon Banana Industry (Compensation Trust Fund) Act 1961* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Carnarvon Banana Industry (Compensation Trust Fund) Act 1961</i>	77 of 1961	4 Dec 1961	19 Apr 1962 (see s. 2 and <i>Gazette</i> 19 Apr 1962 p.951)
	29 of 1964	4 Nov 1964	4 Nov 1964
	16 of 1969	6 May 1969	6 May 1969
<i>Metric Conversion Act 1972</i> (as amended by No. 19 of 1973)	94 of 1972	4 Dec 1972	22 Mar 1974 (see <i>Gazette</i> 22 Mar 1974 p.965)
	31 of 1975	16 May 1975	1 Jul 1975 (see <i>Gazette</i> 20 Jun 1975 p.1958)
	59 of 1980	24 Nov 1980	24 Dec 1980 (see <i>Gazette</i> 24 Dec 1980 p.4350)
	50 of 1982	6 Sep 1982	6 Sep 1982
	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i> , section 3	20 of 1989	1 Dec 1989	15 Dec 1989 (see section 2 and <i>Gazette</i> 15 Dec 1989 p.4513)
<i>Carnarvon Banana Industry (Compensation Trust Fund) Amendment Act 1989</i>	21 of 1989	1 Dec 1989	2 Mar 1990 (see section 2 and <i>Gazette</i> 2 Mar 1990 p.1279)
<i>Financial Administration Legislation Amendment Act 1993</i> , Part 4	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993
<i>Local Government (Consequential Amendments) Act 1996</i> ,	14 of 1996	28 Jun 1996	1 Jul 1996 (see section 2)

Carnarvon Banana Industry (Compensation Trust Fund) Act 1961

Short title	Number and year	Assent	Commencement
section 4			
<i>Financial Legislation Amendment Act 1996</i> , section 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2 (1))

² Section 11(2) of the *Carnarvon Banana Industry (Compensation Trust Fund) Amendment Act 1989* (No. 21 of 1989) reads as follows —

“

- (2) Notwithstanding subsection (1), a person holding office as a secretary to the Committee, inspector or other officer under section 30 of the principal Act immediately before the commencement of this section shall, subject to section 52 of the *Interpretation Act 1984*, continue to hold office as such for the remainder of the period for which that person would, but for subsection (1), have continued so to hold office.

”.

³ Now known as Agriculture Western Australia.