

WESTERN AUSTRALIA

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# ACTS AMENDMENT (GRAIN MARKETING) ACT

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No. 112 of 1987

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AN ACT to amend the *Grain Marketing Act 1975* and the *Bulk Handling Act 1967*.

[Assented to 19 December 1987]

**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

### Short title

1. This Act may be cited as the *Acts Amendment (Grain Marketing) Act 1987*.

### Commencement

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

PART II—AMENDMENT OF *GRAIN MARKETING ACT 1975***Principal Act**

3. In this Part the *Grain Marketing Act 1975\** is referred to as the principal Act.

[\*Act No. 85 of 1975 as amended by Acts Nos. 4 and 89 of 1981, 92 of 1982, 63 of 1984 and 98 of 1985 (as amended by Act No. 4 of 1986).]

**Section 22 amended**

4. Section 22 of the principal Act is amended by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) Subject to subsection (3), a person shall not—

- (a) sell or deliver a prescribed grain to any person other than the Grain Pool; or
- (b) take delivery of or receive a prescribed grain from any person other than the Grain Pool.

Penalty: \$2 000 or for a second or subsequent offence, \$5 000.

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

- (a) that has been previously purchased from the Grain Pool; or
- (b) that is sold, delivered, taken delivery of or received in accordance with a permit issued under section 22A.

(4) Nothing in this section affects the operation of section 39 of the *Bulk Handling Act 1967*. ”.

**Sections 22A, 22B and 22C inserted**

5. After section 22 of the principal Act the following sections are inserted—

**Permits to purchase prescribed grain**

“ 22A (1) Subject to this section, the Grain Pool may issue to a person (in this section referred to as a purchaser) a permit authorizing the purchaser to make purchases of prescribed grain in accordance with the terms and conditions of the permit.

(2) An applicant for a permit under this section must—

- (a) apply to the Grain Pool in accordance with the form approved for the purpose by the Grain Pool;
- (b) pay the appropriate fee as determined by the Grain Pool with the approval of the Minister; and
- (c) enter a binding agreement to pay or cause to be paid to the Grain Pool for the Grain Research Fund established under section 28 an amount equivalent to the amount of levies that would have been imposed on the producer of the prescribed grain and paid to the Grain Research Fund if the prescribed grain purchased under the permit had been delivered to the Grain Pool for a compulsory pool.

(3) A permit issued under this section shall specify—

- (a) the date of issue of the permit;
- (b) the name and address of the person to whom it is issued;
- (c) the season during which purchases of a prescribed grain are authorized by the permit to be made;
- (d) the quantity of prescribed grain authorized by the permit to be purchased;
- (e) the use or uses to which the prescribed grain may be put by the purchaser, and, if the grain may be processed and exported, the processed product shall be specified; and
- (f) any other conditions that may be prescribed by regulations.

(4) A purchaser who purchases a prescribed grain under a permit issued under this section may, not later than the end of the month following that of the purchase, be required to deliver to the Grain Pool a notice in the form approved by the Grain Pool specifying in respect of the first-mentioned month—

- (a) the name and address of each person from whom a prescribed grain was purchased;
- (b) the date of purchase;

- (c) the quantity of prescribed grain constituting each purchase;
  - (d) the use to which the prescribed grain was put; and
  - (e) any other matter prescribed for the purposes of this subsection.
- (5) A person who—
- (a) does not deliver any notice to the Grain Pool as and when required to do so by subsection (4); or
  - (b) delivers a notice under subsection (4) to the Grain Pool that he knows to be false or misleading in a material particular,

commits an offence.

Penalty: \$1 000.

Use by purchaser contrary to permit

22B. A person to whom a permit is issued under section 22A shall not—

- (a) use, or cause or permit to be used, any of the prescribed grain purchased by that person under that permit for a purpose contrary to the purpose specified in the permit; or
- (b) contravene, or cause or permit to be contravened, any condition attached to the permit issued to that person.

Penalty: \$2 000 or for a second or subsequent offence, \$5 000.

Review of sections 22A and 22B

22C. (1) The Minister shall carry out a review of the operation and effectiveness of Part III of this Act commencing no later than one year after the coming into operation of the *Acts Amendment (Grain Marketing) Act 1987*, or 28 February 1989, whichever is the earlier, and in the course of that review the Minister shall consider—

- (a) the effectiveness of the operations of the Grain Pool under section 22A;

- (b) the need for the continuation of the functions of the Grain Pool under section 22A; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of sections 22A and 22B.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, if practicable, cause the report to be laid before each House of Parliament during the month of March 1989, but in any event, shall cause the report to be laid before each House of Parliament no later than 30 June 1989. ”.

### **Section 34 amended**

6. Section 34 of the principal Act is amended by inserting at the foot of subsection (3) the following—

“ Penalty: \$1 000 ”.

### **Section 37A inserted**

7. After section 37 of the principal Act the following section is inserted—

#### **Appeals**

“ 37A. (1) A person whose application under section 22A for a permit to purchase a prescribed grain is refused may, within one month of being notified of the refusal, appeal to the Minister against that refusal by delivering to the Minister a memorandum of appeal containing a statement of the grounds of appeal and any representations that the person may wish to make in support of the appeal.

(2) A person to whom a permit is issued under section 22A who is aggrieved by a term of or a condition attached to the permit may, within one month of the issue of the permit, appeal to the Minister against any such term or condition by delivering to the Minister a memorandum of appeal containing a statement of the grounds of appeal and any representations that the person may wish to make in support of the appeal.

(3) A person who—

- (a) purchases lupins from the Grain Pool for the purpose of exporting the kernels from the Commonwealth and is aggrieved by the price charged by the Grain Pool for those lupins; or
- (b) endeavours to purchase lupins from the Grain Pool for the purpose of exporting the kernels from the Commonwealth and is aggrieved by the refusal of the Grain Pool to sell lupins to that person for that purpose,

may appeal to the Minister against that price or the refusal, as the case may be, by delivering to the Minister a memorandum of appeal containing a statement of the grounds of appeal and any representations that the person may wish to make in support of the appeal.

(4) The Minister shall cause a copy of a memorandum of appeal and representations received under this section to be delivered to the Grain Pool and the Grain Pool may within 7 days make representations to the Minister concerning the appeal.

(5) The Minister's decision on an appeal under this section is final and the Grain Pool shall give effect to any directions that the Minister shall give with respect to an appeal.

(6) The Minister's decision on an appeal, together with the reasons therefor, shall be communicated in writing to the parties to that appeal within 7 days of its being finally determined. ”.

### **Section 38 amended**

8. Section 38 of the principal Act is amended by inserting at the foot of subsection (3) the following—

“ Penalty: \$1 000. ”.

### **Section 39 amended**

9. Section 39 of the principal Act is amended by inserting at the foot of the section the following—

“ Penalty: \$1 000. ”.

**Section 40 repealed**

10. Section 40 of the principal Act is repealed.

**PART III—AMENDMENT OF *BULK HANDLING ACT 1967*****Section 39 of *Bulk Handling Act 1967* amended**

11. Section 39 of the *Bulk Handling Act 1967*\* is amended in paragraph (ba) of subsection (3) by deleting “wheat” wherever it occurs and substituting in each case the following—

“ grain ”.

[\*Reprinted as approved 31 March 1980 and amended by Acts Nos. 3 of 1981, 58 and 115 of 1982, 98 of 1984 and 98 of 1985.]

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