

# Wool (Deficiency Payments)

No. 89 of 1971

An Act to provide for Payments on behalf of the Commonwealth for the purpose of ensuring a Minimum Standard of Financial Returns to Producers of certain Australian Wool sold or otherwise dealt with on or after the second day of July, One thousand nine hundred and seventy-one, and before the first day of July, One thousand nine hundred and seventy-two.

[Assented to 9 November 1971]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

## PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Wool (Deficiency Payments) Act 1971*.

Commencement.

2.—(1.) Subject to this section, this Act shall be deemed to have come into operation on the second day of July, One thousand nine hundred and seventy-one.

(2.) Without prejudice to the liability of a person under any other law, a person is not guilty of an offence against this Act by reason only of an act or omission that took place before the day on which this Act receives the Royal Assent.

3. This Act is divided into Parts, as follows:—

Parts.

- Part I.—Preliminary (Sections 1–5).
- Part II.—Entitlement to Deficiency Payments (Sections 6–11).
- Part III.—Rates of Deficiency Payments (Sections 12–15).
- Part IV.—Making of Deficiency Payments (Sections 16–19).
- Part V.—Registration (Sections 20–23).
- Part VI.—Finance (Sections 24–28).
- Part VII.—Miscellaneous (Sections 29–36).

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

Interpretation.

- “ approved auction ” means an auction in respect of which the reserve price scheme of the Commission is in operation;
- “ deficiency payment ” means a deficiency payment paid or payable in accordance with this Act;
- “ excluded wool ” means wool that is excluded wool in accordance with section 7 of this Act;
- “ P.A.P. wool ” means wool that has been identified as wool for marketing under the price averaging plan conducted by the Commission;
- “ registered broker ” means a person who is, or persons carrying on business in partnership who are, registered under this Act as a registered broker;
- “ registered export agent ” means a person who is, or persons carrying on business in partnership who are, registered under this Act as a registered export agent;
- “ registered merchant ” means a person who is, or persons carrying on business in partnership who are, registered under this Act as a registered merchant;
- “ registered person ” means a registered broker, a registered merchant, a registered wool classing house, a registered seller by tender or a registered export agent;
- “ registered seller by tender ” means a person who is, or persons carrying on business in partnership who are, registered under this Act as a registered seller by tender;
- “ registered wool classing house ” means a person who is, or persons carrying on business in partnership who are, registered under this Act as a registered wool classing house;
- “ sale by tender ”, in relation to wool, means sale of the wool by acceptance of a tender submitted upon a public invitation of tenders for the purchase of the wool;

“ the Commission ” means the Australian Wool Commission established by the *Australian Wool Commission Act 1970*;

“ the prescribed period ” means the period that commenced on the second day of July, One thousand nine hundred and seventy-one, and ends on the thirtieth day of June, One thousand nine hundred and seventy-two;

“ the producer ”, in relation to wool, means—

- (a) except where paragraph (b) or (c) of this definition applies—the person who owns the wool immediately after it is shorn;
- (b) where an agreement to sell the wool separately from the sheep was made before the wool was shorn—the person who owned the sheep immediately before the sale; or
- (c) where a gift of the wool is made before any sale of the wool has taken place—the person to whom the wool is given,

and, for the purposes of this definition, a person who has rights in the nature of an equity of redemption in respect of wool or sheep the subject of a mortgage or other security shall be deemed to be the owner of the wool or sheep;

“ the relevant day ” means—

- (a) in relation to a sale of wool other than a sale referred to in the next succeeding paragraph—the day of the sale;
- (b) in relation to a sale of wool by tender through the agency of a registered seller by tender—the last day on which tenders for the purchase of the wool could be submitted; and
- (c) in relation to the use of wool in manufacture or the exportation of wool—the day on which the inspection of the wool for appraisal in accordance with section 10 of this Act took place;

“ the sale value ” means—

- (a) in relation to a sale of wool by the producer at an approved auction—
  - (i) in the case of greasy wool—the auction price; or
  - (ii) in the case of wool that has been scoured or otherwise processed—the auction price, less an appropriate deduction in respect of the cost of the scouring or other processing;
- (b) in relation to a sale by tender of wool by the producer through the agency of a registered seller by tender, or in relation to the use of wool in manufacture by the producer or the exportation of wool by or on behalf of the producer—the market value of the wool, as at the relevant day, on an Australian auction floor basis, less, in the case of wool that was scoured or otherwise processed by or on behalf of the producer, an appropriate deduction in respect of the cost of the scouring or other processing;

- (c) in relation to a sale of wool by the producer to the Commission, not being a sale referred to in either of the preceding paragraphs of this definition—the market value of the wool, as at the date of the sale, on an Australian auction floor basis, less, in the case of wool that was scoured or otherwise processed by or on behalf of the producer, an appropriate deduction in respect of the cost of the scouring or other processing; and
- (d) in relation to a sale of wool by the producer, not being a sale referred to in any of the preceding paragraphs of this definition—the sale price, less, where the terms of the sale provide for delivery of the wool by the producer otherwise than at the place of shearing, an appropriate deduction to reduce the price to a corresponding price for wool delivered at the place of shearing and, in the case of wool that was scoured or otherwise processed by or on behalf of the producer, less also an appropriate deduction in respect of the cost of the scouring or other processing;

“ the Secretary ” means the person for the time being occupying, or performing the duties of, the office of Secretary to the Department of Primary Industry;

“ the table of notional prices ”, in relation to wool sold in a particular week, means the table of notional prices approved by the Minister under section 12 of this Act, or a revised table of notional prices so approved as in force during that week;

“ week ” means a week commencing on a Monday;

“ wool ” means wool shorn from live sheep or lambs in Australia, and includes any such wool that has been scoured or otherwise processed, but does not include wool to which a manufacturing operation has been applied.

(2.) A reference in this Act to the producer, in relation to wool, shall be read as including a reference to the personal representative or trustee in bankruptcy of the producer or of the estate of a deceased producer.

(3.) A reference in this Act to the sale or exportation of wool by or on behalf of the producer shall be read as including a reference to the sale or exportation of wool by or on behalf of a person exercising rights under a mortgage, lien, bill of sale or other charge given by the producer by way of security.

(4.) For the purposes of this Act, where wool offered for sale at auction in any week is not sold by auction but is sold before the end of that week, through the agency of the broker concerned, by private treaty, the wool shall be deemed to have been sold at auction, for the private treaty price, on the day on which it was offered for sale at auction.

(5.) For the purposes of the definition of “ the sale value ” in subsection (1.) of this section, the market value of wool shall be as assessed by the Commission, on the basis of the appraisalment of the wool made by the Commission, and any deduction required to be made under that definition shall be determined by the Commission.

Agreements for  
sale of wool.

5.—(1.) For the purposes of this Act but subject to the next succeeding sub-section, a sale of wool shall be deemed to have taken place at the time when the agreement for the sale was made.

(2.) Where, before the date of commencement of this Act, an agreement to sell wool has been made before the shearing of the wool, the sale shall be deemed to have taken place on the first day of the prescribed period if—

- (a) under the terms of the agreement, payment was not to be made, or was not to be completed, before the delivery of the wool under the agreement; and
- (b) the wool is delivered under the agreement, and payment is made or completed, in the prescribed period.

#### PART II.—ENTITLEMENT TO DEFICIENCY PAYMENTS.

Wool in respect  
of which  
deficiency  
payments  
payable.

6.—(1.) Subject to this Act, a deficiency payment under this Act is payable by the Commonwealth in respect of the production of wool, other than excluded wool, being—

- (a) wool, other than P.A.P. wool, that, during the prescribed period, is—
  - (i) sold by the producer in Australia at an auction or by means of a sale by tender; or
  - (ii) otherwise sold by the producer and delivered in Australia to or as directed by the purchaser;
- (b) wool that, having become P.A.P. wool at any time before the twenty-third day of June, One thousand nine hundred and seventy-two, upon its submission to a registered broker or registered wool classing house on behalf of the producer, is, in the course of realization of the relevant pool—
  - (i) sold at an approved auction during the prescribed period; or
  - (ii) sold to the Commission after the thirtieth day of September, One thousand nine hundred and seventy-one (whether before or after the end of the prescribed period);
- (c) wool that is used in manufacture in Australia by the producer during the prescribed period; or
- (d) wool that is exported from Australia by or on behalf of the producer, where the entry of the wool for export under the *Customs Act 1901–1971* is made during the prescribed period.

(2.) A deficiency payment does not become payable by reason of a sale referred to in paragraph (a) of the last preceding sub-section unless—

- (a) the sale is at an auction conducted by a registered broker;
- (b) the sale is a sale by tender made through the agency of a registered seller by tender;
- (c) the sale is to a registered merchant or to the Commission; or

(d) where none of the preceding paragraphs of this sub-section applies, the wool is, whether during or after the prescribed period, delivered (whether or not by the person who purchased it from the producer) to a registered person.

(3.) Where a deficiency payment has become payable in respect of any wool by reason of an act or transaction, a further deficiency payment is not payable in respect of the same wool by reason of a subsequent act or transaction.

(4.) Where wool has been sold by the producer, whether before or during the prescribed period, a deficiency payment does not become payable by reason of a further sale of that wool by that producer.

(5.) A deficiency payment is not payable in respect of wool of which a person carrying on business as a butcher of sheep is the producer unless the sheep from which the wool was shorn were kept by that person for the purpose of the production of shorn wool for a period of not less than three months immediately preceding the day on which the shearing of the wool was commenced.

7.—(1.) Subject to this section, wool that is appraised by the Commission as wool of any of the types specified in the second column of the First Schedule to this Act is excluded wool for the purposes of this Act. Excluded inferior wool.

(2.) Regulations made from time to time under this Act may provide that this section is to have effect as if the First Schedule to this Act were varied in the manner provided by the regulations or as if a different Schedule were substituted for that Schedule.

(3.) For the purpose of determining whether any wool (not being wool to which the next succeeding section applies) is or was excluded wool, regard shall be had to the regulations made by virtue of this section that have effect, or are to be deemed to have had effect—

- (a) in the case of a sale of P.A.P. wool—on the last day on which wool from the relevant pool is sold at auction; or
- (b) in any other case—on the relevant day.

8.—(1.) For the purposes of the application of this Act in relation to a sale of wool other than a sale at an approved auction, to the Commission or by tender through the agency of a registered seller by tender— Allowance for excluded wool in private sale.

- (a) if the percentage ascertained in relation to the sale in accordance with the Second Schedule to this Act is nil—the wool shall be deemed to be all excluded wool;

- (b) if the percentage so ascertained is one hundred—the wool shall be deemed to be all wool other than excluded wool; and
- (c) in any other case—
  - (i) the wool shall be deemed to be partly excluded wool and partly other wool; and
  - (ii) for the purposes of section 14 of this Act, the sale value of the wool other than the excluded wool shall be taken to be a percentage, being the percentage so ascertained, of the sale value of all the wool.

(2.) For the purposes of the application of the Second Schedule to this Act in relation to wool that was scoured or otherwise processed by or on behalf of the producer, the weight of the wool shall be taken to be its weight before it was scoured or otherwise processed, as nearly as that weight can be ascertained.

(3.) Regulations made from time to time under this Act may provide that this section is to have effect as if the Second Schedule to this Act were varied in the manner provided by the regulations or as if a different Schedule were substituted for that Schedule.

(4.) For the purposes of the application of this section in relation to a sale of wool, regard shall be had to the regulations made by virtue of this section that have effect, or are to be deemed to have had effect, on the day of the sale.

(5.) For the purposes of this section, all sales and gifts of wool by the one seller to the one buyer that are made, or agreed to be made, on the one day or as related transactions shall be treated as one sale of all the wool for a price equal to the total of the sale prices, whether or not separate prices are agreed on by the parties.

Persons entitled.

9.—(1.) Subject to this section, the person entitled to receive a deficiency payment in respect of wool is the producer of the wool.

(2.) Where—

- (a) a deficiency payment has become payable by reason of a sale of wool or the exportation of wool for the purposes of sale outside Australia; and
- (b) if the deficiency payment were part of the proceeds of the sale, or of a sale of the wool outside Australia, as the case may be, a person would be entitled or authorized to receive, or a person being the registered person by whom the deficiency payment is payable would be entitled or authorized to retain, the whole or a part of the deficiency payment by virtue of a security, assignment, direction or authorization given by the producer or a right of set-off,

that person is entitled or authorized, as the case may be, to receive or retain the whole or that part of the deficiency payment.

(3.) In determining, for the purposes of the last preceding sub-section, whether a person would be entitled or authorized to receive the whole or a part of a deficiency payment if it were part of the proceeds of a sale of wool sold in Australia, the actual proceeds of the sale shall be taken into account before the deficiency payment.

(4.) Subject to the next succeeding sub-section, the same rights and liabilities exist in respect of any moneys paid to, or retained by, a person in accordance with this section in respect of any wool, and any such moneys shall be dealt with and taken into account, as if—

- (a) where those moneys became payable by reason of a sale of the wool—those moneys were part of the proceeds of the sale; or
- (b) where those moneys became payable by reason of the exportation of the wool—those moneys were proceeds of a sale of the wool made immediately before the entry of the wool for export under the *Customs Act 1901–1971*.

(5.) The last preceding sub-section has effect subject to any provision in an agreement or instrument (whether made before or after the commencement of this Act) that refers specifically to payments under this Act or to payments in the nature of those payments.

(6.) Where a registered person who is required or authorized under this Act to make a deficiency payment is entitled to receive, as the producer of the wool, or to retain, in accordance with sub-section (2.) of this section, the whole or a part of the deficiency payment, the appropriation by him to his own use of moneys in respect of the deficiency payment, or of that part of the deficiency payment, as the case may be, shall be deemed to be payment of the deficiency payment to the extent of those moneys.

(7.) A reference in this section to the proceeds of the sale of wool shall be read as including a reference to the amount payable as the pool return in respect of P.A.P. wool.

**10.—(1.)** A deficiency payment is not payable by reason of—

- (a) the sale of wool at an approved auction conducted by a registered broker;
- (b) the sale of P.A.P. wool;
- (c) the sale by tender of wool through the agency of a registered seller by tender; or
- (d) the use of wool in manufacture,

unless, before the wool was sold or used, it was appraised (whether before or after the date on which this Act receives the Royal Assent) by the Commission.

(2.) A deficiency payment is not payable by reason of the exportation of wool unless, either before or after the exportation, the wool was appraised (whether before or after the date on which this Act receives the Royal Assent) by the Commission.

Appraisal  
of certain wool.



(3.) The Commission shall make provision for appraisements, for the purposes of this section, of wool delivered to registered brokers who conduct approved auctions and shall, so far as practicable and subject to payment of reasonable charges to the Commission, comply with requests for appraisements of other wool in accordance with this section.

Collusive sales.

**11.—**(1.) Where the Minister is satisfied that the parties to a sale of wool have agreed on a price higher than the price that would otherwise have been agreed on for the purpose of causing a deficiency payment to become payable on the basis of the higher price, he may determine that this section applies in relation to the sale.

(2.) Where a determination of the Minister under this section is in force in relation to a sale, the Minister may direct that the whole or a part of a deficiency payment that has, apart from this section, become payable by reason of the sale be not payable, or be deemed not to have been payable.

(3.) The power of the Minister under sub-section (1.) of this section may be exercised before, or within one year after, a deficiency payment has been made by reason of the sale.

(4.) Where, by reason of a direction of the Minister under this section, an amount, being the whole or a part of a payment made as a deficiency payment, is to be deemed not to have been payable, that amount is a debt due and payable to the Commonwealth jointly and severally by the parties to the sale, and may be recovered by the Commonwealth accordingly by action in a court of competent jurisdiction.

(5.) A person aggrieved by a determination of the Minister under sub-section (1.) of this section may appeal against the determination to the Supreme Court of a State.

(6.) The Supreme Court of each State is invested with federal jurisdiction to hear and determine appeals under this section.

(7.) The Minister shall be the respondent in the appeal.

(8.) An appeal under this section shall be in the nature of a rehearing.

(9.) In an appeal under this section, if it is proved that the price agreed on for the sale of wool was substantially higher than the market value of the wool, it shall be presumed, in the absence of proof to the contrary, that the parties agreed on the price for the purpose referred to in sub-section (1.) of this section.

(10.) If the Court allows the appeal, it shall quash the determination.

(11.) The jurisdiction conferred by this section is exercisable by a single Judge of the Court.

## PART III.—RATES OF DEFICIENCY PAYMENTS.

12.—(1.) For the purpose of enabling the calculation of deficiency payments, the Minister shall, as soon as practicable after this Act receives the Royal Assent, approve a table, to be known as the table of notional prices, setting out—

Table of  
notional prices.

- (a) a list of types of wool, covering wool of all descriptions; and
- (b) in respect of each type of wool, a notional price per kilogramme determined in accordance with this section.

(2.) The notional price for each type of wool—

- (a) shall be the amount estimated to be the average price per kilogramme of clean wool that would be represented by the total amount that would be found, at the end of the prescribed period, to have been obtained for the sale by producers of greasy wool of that type in Australia in that period if the average price per kilogramme so obtained by producers for greasy wool of all types were found to have been 79.37 cents; and
- (b) shall be determined having regard to the prices obtained at approved auctions in Australia for the various types of wool in the period that commenced on the seventeenth day of August, One thousand nine hundred and seventy, and ended on the first day of July, One thousand nine hundred and seventy-one, to the quantity of, and estimated average yield of clean wool from, each type of wool that was included in those sales and to any other relevant considerations.

(3.) The Minister may, at any time or times before the thirtieth day of June, One thousand nine hundred and seventy-two, cause a review to be made of the table of notional prices in force in the light of further information that has become available, and approve a revised table as the table of notional prices in lieu of the table previously in force, specifying a day, being the first day of a week, as the day on which the revised table is to come into force.

13.—(1.) The Commission shall, in respect of each week in the prescribed period in which wool has been sold in Australia at an approved auction—

Determination  
of percentage  
rates of  
deficiency  
payments.

(a) determine, as nearly as practicable—

- (i) the total of the sale prices of all wool, other than excluded wool, that was sold in Australia at approved auctions during that week; and
- (ii) the amount that would have been the total of those prices if each lot of wool so sold had been sold at a price calculated by applying to the estimated yield of clean wool from that lot the notional price per kilogramme applicable to wool of that type under the table of notional prices; and

- (b) determining the percentage of the amount determined under sub-paragraph (i) of the last preceding paragraph that is represented by the amount, if any, by which the amount so determined is less than the amount determined under sub-paragraph (ii) of that paragraph, and cause that percentage to be notified in the *Gazette* and to registered persons as being the rate of deficiency payments in respect of that week.

(2.) A percentage to be determined under the last preceding sub-section shall be determined to two decimal places and, if the figure in the third decimal place would have been not less than five, the figure in the second decimal place shall be increased by one.

(3.) A determination by the Commission under this section shall be made—

- (a) if it relates to a week that ended before the date on which this Act receives the Royal Assent—as soon as practicable after that date;  
or  
(b) in any other case—before the end of the week next succeeding the week to which it relates.

Amounts of  
deficiency  
payments for  
wool other than  
P.A.P. wool.

14.—(1.) The amount of a deficiency payment payable in respect of particular wool, otherwise than by reason of the sale of the wool as P.A.P. wool, is a percentage of the sale value of the wool, being the percentage notified in accordance with the last preceding section as the rate of deficiency payments in respect of the base week.

(2.) In this section—

“ the base week ”, in relation to wool, means—

- (a) where the relevant day was in a week in respect of which the Commission is required to determine a percentage in accordance with the last preceding section—that week;  
(b) where the relevant day preceded the first week in respect of which the Commission is required to determine such a percentage—that first week; or  
(c) in any other case—the nearest week preceding the relevant day that is a week in respect of which the Commission is required to determine such a percentage.

Amount of  
deficiency  
payment for  
P.A.P. wool.

15.—(1.) Where a deficiency payment is payable by reason of the sale of wool as P.A.P. wool, the amount of the payment shall be a percentage of the share allocated to that wool from the proceeds of the pool in which the wool was included, being the percentage calculated in respect of that pool in accordance with sub-section (3.) of this section.

(2.) The percentage in respect of a pool shall be calculated, and notified to the registered brokers and registered wool classing houses concerned, by the Commission as soon as practicable after the last sale of wool from the pool at auction.

- (3.) The percentage in respect of a pool shall be calculated by—
- (a) ascertaining the pool proceeds in respect of all wool, other than excluded wool, sold at auction from the pool;
  - (b) ascertaining the total amount of the deficiency payments that would have been payable in respect of the wool from which those proceeds were derived if the whole of that wool had been sold, otherwise than as P.A.P. wool, by the producers; and
  - (c) calculating, as a percentage, the proportion which the amount ascertained in accordance with the last preceding paragraph bears to the amount ascertained in accordance with paragraph (a) of this sub-section.

(4.) A percentage to be calculated under the last preceding sub-section shall be calculated to two decimal places and, if the figure in the third decimal place would have been not less than five, the figure in the second decimal place shall be increased by one.

(5.) For the purposes of this section and of section 7 of this Act, all wool that has been dealt with under the price averaging plan of the Commission as applying in respect of price averaging periods terminating after the commencement of this Act and in the one calendar year shall be deemed to constitute one pool.

#### PART IV.—MAKING OF DEFICIENCY PAYMENTS.

16.—(1.) Deficiency payments shall be made on behalf of the Commonwealth by registered persons and the Commission, in accordance with this section.

Persons by whom deficiency payments to be made.

(2.) Subject to this section, a deficiency payment that has become payable by reason of the sale of wool at an auction conducted by a registered broker shall be paid by the registered broker.

(3.) A deficiency payment that has become payable by reason of the sale of wool, otherwise than as P.A.P. wool, at an auction conducted by a registered broker, where the wool was delivered to the broker in the name of a registered classing house, shall be made by the registered classing house.

(4.) A deficiency payment that has become payable by reason of the sale of wool to a registered merchant shall be paid by the registered merchant.

(5.) A deficiency payment that has become payable, upon the delivery of wool to a registered person, by reason of a previous sale of the wool to a person other than a registered merchant, shall be paid by the registered person.

(6.) A deficiency payment that has become payable by reason of the sale of wool as P.A.P. wool shall be paid by the registered broker or registered wool classing house by whom the wool was identified as wool for marketing under the price averaging plan.

(7.) A deficiency payment that has become payable by reason of a sale by tender of wool through the agency of a registered seller by tender shall be paid by the registered seller by tender.

(8.) A deficiency payment that has become payable by reason of a sale of wool to the Commission, not being a sale referred to in sub-section (2.), (3.) or (6.) of this section, shall be paid by the Commission.

(9.) A deficiency payment that has become payable by reason of the use of the wool in manufacture by the producer shall be paid by the Commission.

(10.) A deficiency payment that has become payable by reason of the exportation of wool shall be paid—

(a) if exportation was effected by a registered export agent on behalf of the producer—by the registered export agent; or

(b) in any other case—by the Commission.

(11.) A registered person shall not make a deficiency payment that has become payable, upon delivery to him of wool, by reason of a previous sale of the wool by the producer to another person, unless the registered person has received into his possession a record of that sale, in a form approved by the Secretary and verified, as required by the form, by or on behalf of the vendor and purchaser.

(12.) A registered merchant shall not make a deficiency payment that has become payable by reason of the sale of wool to him by the producer unless he has in his possession a record of the sale, in a form approved by the Secretary, verified, as required by the form, by or on behalf of the producer and himself, as purchaser.

(13.) The Commission is not required to make a deficiency payment that is payable by the Commission unless there is delivered to the Commission a claim for the payment, in a form approved by the Secretary, containing such relevant information and calculations, and accompanied by such relevant documents, as are required by the form and verified by declaration as required by the form.

Making  
deficiency  
payments by  
registered  
persons.

17.—(1.) Subject to this section, a registered person shall, as soon as reasonably practicable, make all deficiency payments that are payable by him in accordance with this Act (including payments by reason of acts and transactions that took place at any time on or after the date on which his registration is to be deemed to have taken effect), and shall do all things necessary to be done by him for that purpose.

(2.) A registered person shall, from time to time, furnish to the Commission, in such form approved by the Secretary as is appropriate, such information and calculations in relation to deficiency payments becoming payable by him as are required by the form, verified by declaration as required by the form.

(3.) Where a registered person has duly furnished information and calculations to the Commission in accordance with the last preceding sub-section, the Commission shall, after examining that information and those calculations, making such inspection of any relevant documents and such inquiries arising out of that inspection as it thinks necessary and referring to the Secretary any matters appearing to require consideration under section 11 of this Act, authorize the registered person to make such deficiency payments of such amounts as appear to the Commission to be payable by the registered person.

(4.) A registered person shall not make a deficiency payment except in accordance with an authorization by the Commission.

(5.) Where a registered person makes a deficiency payment to a person, he shall deliver to that person a statement in writing showing the amount of that deficiency payment separately from any other amount paid to that person.

18.—(1.) Subject to any directions of the Minister, the Commission may at any time make interim payments to a registered broker or registered classing house, upon such conditions as the Commission determines, in respect of deficiency payments that are likely to become payable by the registered broker or registered classing house in respect of P.A.P. wool.

Interim  
payments in  
respect of  
P.A.P. wool.

(2.) Notwithstanding section 27 of this Act, a registered person shall pay an interim payment received in accordance with the last preceding sub-section to the credit of a bank account approved by the Commission for the purposes of this section, being an account maintained by the registered person for the purposes of the price averaging plan conducted by the Commission, and any interest earned, or any saving of interest, by reason of such a payment shall be for the benefit of that account.

(3.) Where—

(a) a registered person makes, in respect of P.A.P. wool, an advance to a person entitled to share in the pool proceeds; and

(b) that advance exceeds the amount that is found to be properly payable to that person out of the pool proceeds,

an amount not exceeding the amount of the excess may be deducted by the registered person from a deficiency payment becoming payable to a person in respect of that wool, and the amount so deducted shall be deemed, for the purposes of this Act, to have been paid to that last-mentioned person as a deficiency payment.

19.—(1.) Where the Secretary is satisfied that a deficiency payment—

(a) would be payable to a person but for a failure of compliance with the requirements of sub-section (11.), (12.) or (13.) of section 16 of this Act or paragraph (d) of sub-section (2.) of section 6 of this Act; or

Payment of  
deficiency  
payments in  
special  
circumstances.

(b) has become payable by a registered person but has not been paid,  
 he may direct the Commission to make, or may authorize a registered person to make, the deficiency payment.

(2.) Where—

(a) a person who has been a registered person of any class has ceased to be a registered person of that class; and

(b) the Secretary is satisfied that a deficiency payment would be payable by that person if he had not so ceased,

the Secretary may direct the Commission to make, or may authorize a registered person to make, the deficiency payment.

(3.) For the purposes of a direction under this section in a case in which the exact amount of the deficiency payment is not established to the satisfaction of the Secretary, the Secretary may direct the making of a payment of the highest amount that the Secretary is satisfied does not exceed the amount of the deficiency payment.

#### PART V.—REGISTRATION.

Registration,  
 and cancellation  
 of registration.

20.—(1.) A person who carries on a business in the course of which he conducts auction sales of wool may apply for registration as a registered broker.

(2.) A person who carries on a business (including a manufacturing business) in the course of which he purchases wool may apply for registration as a registered merchant.

(3.) A person who carries on the business of a wool classing house may apply for registration as a registered wool classing house.

(4.) A person who carries on a business in the course of which he exports wool on behalf of other persons may apply for registration as a registered export agent.

(5.) A person who carries on a business in the course of which he makes sales by tender of wool on behalf of producers may apply for registration as a registered seller by tender.

(6.) A person may make applications under more than one of the preceding sub-sections of this section.

(7.) An application for registration shall be made in writing to the Secretary, in accordance with a form approved by the Secretary.

(8.) By the application, the person shall agree to perform the functions and duties, and to be subject to the obligations under this Act and the regulations, of a registered person of the category to which the application relates.

(9.) Subject to this section, upon receipt of an application duly made, the Secretary shall forthwith register the person as a registered person of the category to which the application relates by making an appropriate entry in a register to be kept by the Secretary for the purpose.

(10.) Where the Secretary makes an entry in accordance with the last preceding sub-section—

- (a) the registration shall be deemed to have taken effect on the date of commencement of this Act, or on the date on which the registered person commenced to carry on the relevant business, whichever is the later; and
- (b) the Secretary shall give to the registered person notice of the registration and of the date as from which it is to be deemed to have taken effect.

(11.) The Secretary is not required to register a person whose registration in any capacity under this Act has previously been cancelled by order of the Minister or a person who is bankrupt or is a company that is being wound up.

(12.) Where—

- (a) in the case of a registered person being a company, the company commences to be wound up;
- (b) a registered person becomes bankrupt or dies;
- (c) a registered person ceases to carry on the business by reason of the carrying on of which he became registered; or
- (d) a registered person applies in writing to the Secretary for cancellation of the registration,

the Secretary shall cancel the registration by deleting the relevant entry from the register.

(13.) The Minister may order the cancellation of a registration upon being satisfied that—

- (a) the registered person has, in any respect, failed to perform the functions and duties of a registered person of the category concerned;
- (b) the registered person has committed, or attempted to commit, an offence against this Act or has otherwise been guilty of misconduct in a matter relating to this Act; or
- (c) the registered person is not a fit and proper person to remain registered,

and the Secretary shall forthwith cancel the registration by deleting the relevant entry from the register.

(14.) Where the Minister orders the cancellation of a registration, he shall give notice in writing to the person concerned of the ground on which he has made the order.

(15.) A reference in this section to a person shall be read as including a reference to two or more persons carrying on business as partners and, where two or more such persons are registered as a registered person,



a reference in this section to a registered person shall, where the context so admits, be read as including a reference to any one of those persons.

**Appeals.**

**21.—(1.)** Where the Minister orders the cancellation of a registration, the person, or any of the persons, whose registration has been ordered to be cancelled may appeal to the Supreme Court of a State.

(2.) The Supreme Court of each State is invested with federal jurisdiction to hear and determine appeals under this section.

(3.) The Minister shall be the respondent in the appeal.

(4.) An appeal under this section shall be in the nature of a rehearing.

(5.) If the Court is satisfied that a ground specified in the notice given by the Minister under sub-section (14.) of the last preceding section has been established, it shall dismiss the appeal, but otherwise it shall allow the appeal and order the restoration of the registration.

(6.) The Court in which an appeal under this section is instituted may, if it thinks fit, order the restoration of the registration until the appeal is determined.

(7.) The jurisdiction conferred by this section is exercisable by a single Judge of the Court, whose decision is final and conclusive.

**Certain duties of registered persons.**

**22.—(1.)** A registered person, or a person who has been a registered person, shall retain in his possession every record of a sale or other record of which he has possession, being a record for the purposes of, or relevant to the operation of, this Act, until its disposal is authorized by the Secretary and shall, at the request of a person authorized by the Secretary, produce any such record for inspection by the person or, in the case of a record made for the purposes of this Act, deliver it to that person.

Penalty: Five hundred dollars.

(2.) A registered person shall—

- (a) furnish to the Secretary, as required by the Secretary, information in his possession that is relevant to the operation of this Act; and
- (b) permit a person authorized in writing by the Secretary to have full access, at all reasonable times, to books and documents in his possession that are relevant to the operation of this Act, and to take copies of, or extracts from, any such books or documents.

Penalty: Five hundred dollars.

(3.) It is the duty of a registered person promptly to bring to the notice of the Secretary any circumstances coming to his notice that give reasonable grounds for suspecting that—

- (a) a transaction is one in relation to which section 11 of this Act could be applicable; or
- (b) a person has committed, or attempted to commit, an offence against this Act.

(4.) A registered person is not to make a charge, by way of commission or otherwise, in respect of a deficiency payment.

(5.) The last preceding sub-section does not prevent the making by a registered person of a charge, in respect of insurance of wool, based on the amount of a deficiency payment in respect of the wool, or the retention from a deficiency payment of an amount in respect of such a charge in accordance with section 9 of this Act.

23. A person shall not falsely represent that he is a registered person, or that he is a registered person of a particular category.

False representation as to registration.

Penalty: Five hundred dollars.

#### PART VI.—FINANCE.

24.—(1.) The Commonwealth shall pay to the Commission from time to time sums as are necessary for the purposes of payment of amounts payable by the Commission in accordance with this Act.

Payments to Commission.

(2.) The Commonwealth shall pay to the Commission such amounts as the Minister from time to time determines for the purpose of meeting additional administrative costs incurred by the Commission for the purposes of the performance of its functions under this Act, including costs incurred before the date on which this Act receives the Royal Assent.

(3.) The Commission shall, for the purposes of this Act, open and maintain a separate account with a bank approved by the Treasurer for the purposes of the operations of the Commission under this Act.

(4.) The Commission shall pay into the account all moneys received by it from the Commonwealth under sub-section (1.) of this section and any repayments received by it in the performance of its functions under this Act.

(5.) The moneys standing to the credit of the account shall be applied only for the purpose of making payments authorized by this Act to be made by the Commission.

25. Where, in accordance with this Act, the Commission or the Secretary authorizes a registered person to make a deficiency payment, the Commission shall pay to the registered person the moneys necessary for the making of that deficiency payment.

Commission to provide moneys to registered persons.

26. The Secretary may, in accordance with principles approved by the Minister, arrange for payments by the Commonwealth to registered persons in respect of costs incurred by them for the purposes of the performance of their functions as registered persons, including costs incurred before the date on which this Act receives the Royal Assent.

Costs of registered persons.

27.—(1.) Moneys paid to a registered person by the Commission in respect of deficiency payments, and any moneys received by the registered person by way of refund or recovery of moneys paid by the registered person as deficiency payments, shall be deemed to be moneys held in trust for the Commonwealth until applied by the registered person in accordance with this Act.

Moneys paid to a registered person to be held in trust.

(2.) Where a registered person, with the authority of the Commission, makes a deficiency payment that was not payable, or was in excess of the amount properly payable, or was paid to a person other than the person entitled to receive it, the registered person is not liable to the Commonwealth or to the Commission in respect of moneys used to make the payment, or the excess payment, as the case may be, if the registered person obtained the authority of the Commission, and made the payment, in good faith and without negligence.

(3.) Moneys referred to in sub-section (1.) of this section shall be deemed not to be public moneys, or to form part of the Commonwealth Public Account, for the purposes of the *Audit Act* 1901–1969.

Appropriation.

28. Payments required or authorized to be made by the Commonwealth under this Act shall be made out of the Consolidated Revenue Fund, which is, to the necessary extent, appropriated accordingly.

#### PART VII.—MISCELLANEOUS.

Functions of Commission.

29.—(1.) In addition to its functions and powers under the *Australian Wool Commission Act* 1970, the Commission has such functions and powers as are conferred on it by this Act, but sub-section (2.) of section 4 of that Act does not apply in relation to the functions and powers so conferred.

(2.) The power of the Commission under section 33 of the *Australian Wool Commission Act* 1970 extends to the appointment of officers, and engagement of employees, for the purposes of this Act.

(3.) The reference in section 24 of the *Australian Wool Commission Act* 1970 to the administrative costs of the Commission shall be read as not including a reference to the additional administrative costs incurred by the Commission by reason of the performance of its functions under this Act.

(4.) Sections 26 and 27 of the *Australian Wool Commission Act* 1970 have effect subject to section 24 of this Act, and section 28 of that Act does not apply in relation to moneys received by the Commission for the purposes of this Act.

(5.) A power of the Commission under this Act may be exercised in its name and on its behalf by a person in the service of the Commission authorized by the Commission to exercise that power.

False documents, &c.

30.—(1.) A person, including a registered person, shall not—

(a) do an act or thing for the purpose of obtaining, or causing or enabling another person to obtain or receive, a deficiency payment that is not payable to him or to that other person, or exceeds the amount payable to him or to that other person;

- (b) sign a declaration in writing or other document required, intended to be used or capable of being used for the purposes of this Act which, to his knowledge, contains information or a statement that is false or misleading in a material particular;
  - (c) present or deliver to another person, including the Commission or the Secretary, a declaration in writing or other document, whether signed by him or not, that is presented or delivered for the purposes of this Act, or is required, intended to be used or capable of being used for those purposes, and, to his knowledge, contains information or a statement that is false or misleading in a material particular unless, in the case of a registered person, he informs the Commission or the Secretary, as the case may be, of the fact that the statement or information is false or misleading; or
  - (d) with intent to defraud the Commonwealth, forge or alter a declaration in writing or other document required, intended to be used or capable of being used for the purposes of this Act.
- (2.) A person shall not agree to sell or purchase wool at a price higher than the price to which he would otherwise have agreed for the purpose of causing a deficiency payment to become payable on the basis of the higher price.
- (3.) A person who contravenes either of the last two preceding subsections is guilty of an offence punishable, subject to this section, by a fine not exceeding One thousand dollars or imprisonment for a term not exceeding two years.
- (4.) Where the court convicting a person of an offence against this section is satisfied that a deficiency payment has been received by that person or another person, or was intended by that person to be so received, whether in whole or in part, as a result of the commission of the offence, the fine that the court may impose is—
- (a) a fine not exceeding One thousand dollars; or
  - (b) a fine exceeding One thousand dollars, being a fine—
    - (i) of an amount not exceeding the whole amount of the deficiency payment received; or
    - (ii) of an amount that the court is satisfied does not exceed the whole amount of the deficiency payment that was intended to be received,
- as the case may be.
- (5.) An offence against this section may be prosecuted summarily or upon indictment but an offender is not liable to be punished more than once in respect of the same offence.
- (6.) Where proceedings for an offence against this section are brought in a court of summary jurisdiction, the court may commit the defendant for trial, or, with the consent of the defendant and of the prosecutor, determine the proceedings, but, where the court of summary jurisdiction determines the proceedings, the court shall not sentence the defendant to imprisonment for a term exceeding three months.

Person receiving payment to which he is not entitled.

31. A person who receives a deficiency payment which, to his knowledge, is not payable to him, or exceeds the amount payable to him, shall, as soon as practicable, notify the Secretary of the receipt of the payment and of the fact that the payment is not in accordance with this Act.

Penalty: Two hundred dollars or an amount equal to the deficiency payment, or to so much of the deficiency payment as exceeds the amount payable, as the case may be, whichever is the greater.

Court may order refunds.

32.—(1.) Where a person, other than a registered person, is convicted of an offence against sub-section (1.) of section 30 of this Act, the court may, in addition to imposing a penalty, order the person to refund to the Commonwealth so much of a deficiency payment as was paid to him or to another person as a result of the offence.

(2.) Where a person is convicted of an offence under the last preceding section, the court may, in addition to imposing a penalty, order the person to refund to the Commonwealth the amount of the deficiency payment, or the amount by which the deficiency payment exceeded the amount properly payable, as the case may be.

(3.) Where a court has made an order under this section, a certificate under the hand of the clerk or other appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

Access to premises.

33.—(1.) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

(2.) Where an authorized person has reason to believe that there are on any premises books, documents or papers relating to sales of wool or other matters relevant to the operation or administration of this Act, the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

(3.) If, on an application under the last preceding sub-section, the Justice of the Peace is satisfied by information on oath—

(a) that there is reasonable ground to believe that there are on the premises to which the application relates any books, documents or papers relating to sales of wool or other matters relevant to the operation or administration of this Act; and

(b) that the issue of the warrant is reasonably required for the purposes of this Act,

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises,

during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4.) Where an authorized person has entered premises in pursuance of sub-section (1.) of this section or in pursuance of a warrant granted under the last preceding sub-section, he may exercise the functions of an authorized person under this section.

(5.) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of a warrant granted under sub-section (3.) of this section or in pursuance of the last preceding sub-section.

Penalty: Two hundred dollars.

(6.) The functions of an authorized person under this section are to search for, inspect, take extracts from and make copies of any books, documents or papers relating to sales of wool or other matters relevant to the operation or administration of this Act.

(7.) In this section "authorized person" means—

- (a) a person appointed by the Minister, by instrument in writing, to be an authorized person for the purposes of this section; or
- (b) a person included in a class of persons appointed by the Minister, by instrument in writing, to be authorized persons for the purposes of this section.

34.—(1.) Where the Commission has made, or a registered person has, Overpayments. whether with or without the authority of the Commission, made—

- (a) a deficiency payment that was not payable, or was not payable to the person to whom it was paid; or
- (b) a deficiency payment that exceeds the amount that was payable, the amount of the payment, or of the excess, as the case may be, if not otherwise recovered, may be recovered by the Commonwealth from the person to whom it was paid, as a debt due to the Commonwealth, by action in a court of competent jurisdiction.

(2.) An action under the last preceding sub-section shall not be brought except with the consent of the Minister.

(3.) An amount paid by a registered person to which sub-section (1.) of this section applies is not recoverable by the registered person unless the Minister has consented to recovery of that amount by the registered person, but the Minister may, by writing under his hand, release a registered person from liability to the Commonwealth in respect of such an amount and shall not refuse his consent to recovery of such an amount by the registered person unless he so releases the registered person.

Report by  
Minister.

**35.** The Minister shall, as soon as practicable after the end of the prescribed period, cause a report on the operation of this Act to be prepared, and shall lay a copy of the report on the table of each House of the Parliament not later than the fifteenth sitting day of that House after the thirtieth day of September, One thousand nine hundred and seventy-two.

Regulations.

**36.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, prescribing penalties, not exceeding a fine of Two hundred dollars, for offences against the regulations.

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## THE SCHEDULES

## FIRST SCHEDULE

Section 7.

## EXCLUDED WOOL TYPES

The types of wool specified in the second column of this Schedule are all the types to which a number set out in that column is applicable under the table of types and descriptions of Australian wool published by the Commission for the purposes of the wool selling season that commenced in the year 1971.

First Column Description of Wool	Second Column Type Numbers
Merino Carding Stained Pieces and Bellies .. .. .	267, 268, 270, 271, 273, 274
Merino Carding Locks .. .. .	279P, 279, 280, 281, 282, 283, 284, 285, 286, 287, 290
Merino Carding Crutchings .. .. .	296, 297, 298, 303, 304, 305, 307
Merino Carding Wiggings and Eye Pieces .. .. .	309
Merino Black .. .. .	320, 321, 322
Brands .. .. .	326, 327, 328
Cotted Wool .. .. .	330, 331, 332, 333, 334, 336
Overgrown and Double .. .. .	344, 345, 346, 347, 348, 349
Crossbred Carding Locks .. .. .	567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578
Crossbred Carding Crutchings .. .. .	583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594
Crossbred Carding Stained Pieces and Stained Bellies .. .. .	596, 597, 598, 600, 601, 602
Crossbred Eye Pieces and Wiggings .. .. .	604
Crossbred Black .. .. .	606, 607, 608, 609

## SECOND SCHEDULE

Section 8.

## ALLOWANCE FOR EXCLUDED WOOL IN PRIVATE SALES

Average amount per kilogramme represented by sale value of all the wool	Percentage of sale value deemed to relate to wool other than excluded wool	Average amount per kilogramme represented by sale value of all the wool	Percentage of sale value deemed to relate to wool other than excluded wool
Cents	%	Cents	%
Less than 18 .. .. .	0	41 but less than 42 .. .. .	75
18 but less than 19 .. .. .	2	42 " " " 43 .. .. .	77
19 " " " 20 .. .. .	7	43 " " " 44 .. .. .	78
20 " " " 21 .. .. .	13	44 " " " 45 .. .. .	79
21 " " " 22 .. .. .	19	45 " " " 46 .. .. .	80
22 " " " 23 .. .. .	24	46 " " " 47 .. .. .	82
23 " " " 24 .. .. .	29	47 " " " 48 .. .. .	83
24 " " " 25 .. .. .	33	48 " " " 49 .. .. .	84
25 " " " 26 .. .. .	37	49 " " " 50 .. .. .	85
26 " " " 27 .. .. .	41	50 " " " 51 .. .. .	86
27 " " " 28 .. .. .	44	51 " " " 52 .. .. .	87
28 " " " 29 .. .. .	48	52 " " " 53 .. .. .	88
29 " " " 30 .. .. .	51	53 " " " 54 .. .. .	89
30 " " " 31 .. .. .	53	54 " " " 56 .. .. .	90
31 " " " 32 .. .. .	56	56 " " " 57 .. .. .	91
32 " " " 33 .. .. .	58	57 " " " 58 .. .. .	92
33 " " " 34 .. .. .	61	58 " " " 60 .. .. .	93
34 " " " 35 .. .. .	63	60 " " " 61 .. .. .	94
35 " " " 36 .. .. .	65	61 " " " 63 .. .. .	95
36 " " " 37 .. .. .	67	63 " " " 64 .. .. .	96
37 " " " 38 .. .. .	69	64 " " " 66 .. .. .	97
38 " " " 39 .. .. .	70	66 " " " 68 .. .. .	98
39 " " " 40 .. .. .	72	68 " " " 70 .. .. .	99
40 " " " 41 .. .. .	74	70 and over .. .. .	100