

WOOL REALIZATION (DISTRIBUTION OF PROFITS).

No. 76 of 1952.

An Act to amend the *Wool Realization (Distribution of Profits) Act 1948.*

[Assented to 6th November, 1952.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Wool Realization (Distribution of Profits) Act 1952.*

(2.) The *Wool Realization (Distribution of Profits) Act 1948** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Wool Realization (Distribution of Profits) Act 1948–1952.*

Commencement.

2.—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Section seven of this Act shall be deemed to have come into operation on the date of commencement of the Principal Act.

Parts.

3. Section three of the Principal Act is amended by inserting after the words "Part IV.—Method of Distribution." the words "Part IVA.—Special Distribution to Persons who have left the Wool-growing Industry."

Interpretation.

4. Section four of the Principal Act is amended—

(a) by omitting the definition of "declared amount of profit" and inserting in its stead the following definition :—

" 'declared amount of profit' means an amount which has been specified in a notice published in the *Gazette* in pursuance of section six of the *Wool Realization (Distribution of Profits) Act 1948* or in pursuance of sub-section (1.) or (4.) of section six of this Act ; " ; and

(b) by omitting the definition of "the net profit" and inserting in its stead the following definitions :—

" 'the Fund' means the Wool Disposals Profit Fund established under section twenty-five of this Act ;

" 'the special distribution' means the distribution under section twenty-three F of this Act ;".

5. Section six of the Principal Act is repealed and the following section inserted in its stead :—

" 6.—(1.) The Minister may, at any time, with the approval of the Treasurer, by notice published in the *Gazette*, declare an amount to be available for an interim distribution under this Act out of the Fund. Declared amounts of profit.

" (2.) In making a declaration under the last preceding sub-section the Minister shall not take into account—

(a) any amount paid into the Fund under sub-section (2.) of section twenty-five of this Act after the date determined by the Minister under section twenty-three E of this Act ;
or

(b) any additional moneys that have arisen out of investments attributable to any such amount.

" (3.) At such time before the thirtieth day of June, One thousand nine hundred and fifty-five, as the Minister thinks fit, being a time after—

(a) the wool disposals profit has been ascertained ; and

(b) the amount of the expenses and charges of the Commission in administering this Act, including the estimated expenses and charges in relation to a final distribution, have been certified by the Commission to the Minister,

the Minister shall, by notice in the *Gazette*, specify the total final distributable amount, being an amount equal to the moneys standing to the credit of the Fund at a date determined by the Minister, being a date as near as practicable to the date of publication of the notice, less so much of the amount certified under paragraph (b) of this sub-section as is or will be payable out of the Fund.

" (4.) The Minister shall, in the notice under the last preceding sub-section—

(a) if any moneys have been paid into the Fund under sub-section (2.) of section twenty-five of this Act after the date determined by the Minister under section twenty-three E

of this Act, declare that an amount specified in the notice is available out of the total final distributable amount for distribution in accordance with sub-section (2.) of the next succeeding section, being an amount ascertained by—

- (i) adding to the amount, if any, of the moneys so paid into the Fund the amount of any additional moneys that have arisen out of investments attributable to those moneys ; and
- (ii) deducting from the sum so arrived at an appropriate part determined by the Minister of the amount of the expenses and charges referred to in the last preceding sub-section ; and

(b) declare that an amount specified in the notice, being—

- (i) the total final distributable amount, less the amount specified in the notice in pursuance of the last preceding paragraph ; or
- (ii) if no such amount is so specified, the total final distributable amount,

is available for distribution in accordance with sub-section (2A.) of the next succeeding section.”.

Distribution of
declared
amounts of
profit.

6. Section seven of the Principal Act is amended by inserting after sub-section (2.) the following sub-section :—

“(2A.) The distribution in relation to the declared amount of profit declared under paragraph (b) of sub-section (4.) of the last preceding section shall be made as if wool in relation to which a payment has been made in the special distribution were not participating wool and, notwithstanding anything contained in this Act, a payment shall not be made in that first-mentioned distribution in relation to that wool.”.

7. Section fourteen of the Principal Act is repealed and the following section inserted in its stead :—

No distribution
where amount
less than One
pound.

“ 14.—(1.) Where the amount which would, but for this section, be payable to a person in a distribution under this Act is less than One pound, that amount is not, except as provided in the next succeeding sub-section, payable to that person, but shall, if the amount arises out of a distribution other than the final distribution, be retained by the Commission until the time of the final distribution.

“(2.) Where the last preceding sub-section has applied in relation to more than one amount which would otherwise have been payable to a person, and the sum of those amounts is not less than One pound, the Commission shall pay the sum of those amounts to that person at the time of the final distribution.

“(3.) Amounts to which sub-section (1.) of this section applies which are not paid in accordance with the last preceding sub-section shall be paid to the credit of the Wool Industry Fund established under the *Wool Industry Fund Act 1946*.”

8. After Part IV. of the Principal Act the following Part is inserted :—

“PART IVA.—SPECIAL DISTRIBUTION TO PERSONS WHO HAVE LEFT THE WOOLGROWING INDUSTRY.

“23A. A special distribution of moneys may be made in accordance with this Part to persons whose names are on the distribution list kept in pursuance of section eighteen of this Act but who left the woolgrowing industry before the first day of September, One thousand nine hundred and forty-nine.

Special
distribution.

“23B.—(1.) For the purposes of this Part, but subject to the next succeeding sub-section, the following persons shall be deemed to have left the woolgrowing industry before the first day of September, One thousand nine hundred and forty-nine (in this sub-section referred to as ‘the prescribed date’), namely :—

Persons deemed
to have left the
woolgrowing
industry.

- (a) a person (other than a company) who submitted for appraisal participating wool produced by him in the course of carrying on (otherwise than in partnership) the business of woolgrowing, but has not, since the prescribed date, carried on the business of woolgrowing to an extent which the Minister considers material for the purposes of this Part ;
- (b) personal representatives or trustees, where the Minister considers that they may reasonably be treated, in their capacity as personal representatives or trustees, as having left the woolgrowing industry before the prescribed date ;
- (c) a trustee entitled to receive amounts under section nine of this Act ;
- (d) a person referred to in section thirteen of this Act where, under that section, he would be required to pay more than one-half of the amount received by him in the special distribution to the person who gave the security, and that last-mentioned person is a person who left the woolgrowing industry before the prescribed date ;
- (e) a company which supplied participating wool for appraisal, or the members or former members of a partnership or dissolved partnership which supplied participating wool for appraisal, where the company or partnership has not carried on the business of woolgrowing since the prescribed date to an extent which the Minister considers material for the purposes of this Part ; and

(f) a person to whom amounts are payable in pursuance of sub-section (1.) of section ten of this Act in relation to a company which became defunct before the prescribed date.

“(2.) For the purposes of this Part, a person shall not be deemed to have left the woolgrowing industry before the first day of September, One thousand nine hundred and forty-nine, unless the Minister considers that, having regard to all the circumstances, he should be treated as such a person.

Applications to share in the special distribution.

“23C.—(1.) The Minister may, by notice published in the *Gazette*, invite persons who claim to be entitled to share in the special distribution to submit applications accordingly.

“(2.) An application under this section—

- (a) shall be in accordance with such form as the Minister determines and verified by statutory declaration of the applicant; and
- (b) shall be lodged with the Commission before a date specified in the notice under the last preceding sub-section, or such later date as the Minister, for special reasons, allows.

“(3.) A person is not entitled to share in the special distribution unless he has duly made an application under this section.

“(4.) The Minister or the Commission, or a person authorized in writing by the Minister to act under this sub-section, may, by notice in writing, require an applicant to furnish, before a date specified in the notice, such information in relation to his application (including information verified by statutory declaration) as the person making the requirement thinks necessary, and, if the requirement is not complied with to the satisfaction of that person, the application shall be deemed not to have been duly made.

“(5.) Section seventeen of this Act does not apply in relation to the special distribution.

List to be furnished to Commission.

“23D.—(1.) The Minister shall consider all applications duly made under the last preceding section and shall furnish to the Commission a list or lists of persons whose applications have been considered and who, in the opinion of the Minister, are entitled to share in the special distribution, showing the appraised value of the wool in relation to which each such person is, in the opinion of the Minister, so entitled.

“(2.) A reference in this Act to the distribution list shall, in relation to the special distribution, be read as a reference to the list or lists furnished to the Commission under this section.

Declaration of percentage.

“23E.—(1.) When the Minister considers it practicable to commence the special distribution, he shall, by notice published in the *Gazette*, declare that a percentage specified in the notice shall be the percentage of the appraised value of wool for the purposes of the special distribution.

“(2.) The percentage so specified shall be a percentage determined by the Minister, with the concurrence of the Treasurer, as the percentage which will result in the distribution under the next succeeding section to the persons entitled to share in the special distribution of the amounts which they should justly receive having regard to the moneys standing to the credit of the Fund at a date determined by the Minister, being a date as near as practicable to the date of publication of the notice and to the expenses and charges of the Commission in relation to the special distribution.

“23F. Subject to this Act, the Commission shall make the special distribution by paying to each person whose name is on a list furnished to the Commission under section twenty-three D of this Act an amount equal to the percentage specified in the declaration under the last preceding section of the appraised value of wool shown on that list in relation to that person.

Basis of
distribution.

“23G.—(1.) The Minister may exercise his powers under this section if he considers it desirable to commence the special distribution, but also considers that it is necessary that the Commonwealth should retain part of the moneys that would otherwise be distributed for the purpose of ensuring that appropriate alterations can be made by the Parliament to the method of distribution of the wool disposals profit if it is found, as a result of legal proceedings pending at the commencement of this section or otherwise, that any persons have legal rights independently of this Act to payments or further payments from the Commonwealth in relation to participating wool.

Establishment
of special
reserve.

“(2.) The Minister may direct that the amount that would, but for this section, be payable to each person in the special distribution shall be reduced by a percentage determined by the Minister with the concurrence of the Treasurer.

“(3.) For the purposes of this section, there shall be a Wool Disposals Profit (Special Reserve) Fund (in this section referred to as ‘the Special Fund’), which shall be a trust account within the meaning of section sixty-two A of the *Audit Act* 1901–1950.

“(4.) An amount equal to each amount by which an amount otherwise payable in the special distribution is reduced in pursuance of this section shall be paid out of the Wool Disposals Profit Fund into the Special Fund.

“(5.) Any additional moneys which arise out of investments attributable to moneys standing to the credit of the Special Fund form part of that fund.

“(6.) Unless otherwise provided by the Parliament, a distribution shall, when the Minister so directs, be made by the Commission of an amount equal to the moneys standing to the credit of the Special Fund, less an amount equal to the expenses and charges of the Commission in relation to that distribution.

“(7.) Notwithstanding the provisions of sub-section (2.) of section seven of this Act, there shall be payable, in the distribution under the last preceding sub-section, in relation to any participating wool

in respect of which an amount was payable in the special distribution, an amount that bears to the amount to be distributed the same proportion as the appraised value of that wool bears to the total of the appraised values of all such participating wool.

“(8.) An amount payable under this section in relation to any wool is payable to the person whose name is, at the time of the payment, shown in relation to that wool on the distribution list kept under section eighteen of this Act.

“(9.) Notwithstanding anything contained in this Act—

- (a) the expenses and charges of the Commission in relation to a distribution under sub-section (6.) of this section; and
- (b) the moneys required by the Commission for the purpose of payments by it (including commission deductible from payments) in that distribution,

shall be paid to the Commission out of the Special Fund.

Subsequent
interim
distributions.

“23H.—(1.) Notwithstanding anything contained in this Act, where a payment has been made in the special distribution in relation to any wool, that wool shall be deemed not to be participating wool for the purposes of the application of sub-section (2.) of section seven of this Act in relation to an interim distribution out of a declared amount of profit declared after the date of publication of the notice under section twenty-three E of this Act, and a payment shall not be made in any such interim distribution in relation to that wool.

“(2.) Where a payment is made in such an interim distribution in relation to any wool before a payment is made in the special distribution in relation to that wool, the amounts that would, but for this sub-section, be paid under this Part in relation to that wool shall be reduced by the amount of the first-mentioned payment.

Delegation by
Minister.

“23J.—(1.) The Minister may, by writing under his hand, delegate to a person all or any of his powers or functions under this Part (except this power of delegation and his powers and functions under sections twenty-three E and twenty-three G of this Act), and powers or functions so delegated may be exercised or performed by the delegate.

“(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.”

9. Sections twenty-four and twenty-five of the Principal Act are repealed and the following sections inserted in their stead :—

Certain moneys
to be paid to
Commonwealth

“24.—(1.) Subject to the next succeeding sub-section, the Commission shall pay to the Commonwealth—

- (a) the moneys held by it at the date of commencement of this section representing the moneys referred to in paragraph (b) of the definition of ‘the wool disposals profit’ in sub-section (1.) of section four of this Act, together with any income received by the Commission from the investment of those moneys;

- (b) all moneys which, before or after the commencement of this section, the Commission has been or is authorized by the Joint Organization or by the liquidator of the Joint Organization to pay to the Commonwealth on account of the Commonwealth's share in the ultimate balance of profit arising from the transactions of the Joint Organization, together with any income received by the Commission from the investment of any moneys set aside by the Commission as moneys payable to the Commonwealth; and
- (c) any interest received by the Commission before the commencement of this section in the course of the performance of its functions under this Act.

“(2.) The Commission may deduct from the amount payable under the last preceding sub-section the sum of the following:—

- (a) the moneys distributed by the Commission, or paid into court, in the course of distributions out of declared amounts of profit declared before the commencement of this section (including commission deducted by the Commission or by brokers);
- (b) the moneys required by the Commission for the purposes of further payments in the course of those distributions;
- (c) the moneys retained by the Commission at the commencement of this section in pursuance of section fourteen, twenty-six or twenty-seven of this Act; and
- (d) an amount approved by the Treasurer in respect of the expenses and charges of the Commission in administering this Act up to the date of commencement of this section (including interest paid to the Commonwealth Bank of Australia upon any advance made by the Bank to the Commission for the purposes of this Act).

“(3.) The Commission may, with the approval of the Treasurer, transfer to the Commonwealth investments held by the Commission at the commencement of this section representing moneys referred to in sub-section (1.) of this section.

“(4.) Where investments are transferred under the last preceding sub-section—

- (a) the Commission shall be deemed to have paid to the Commonwealth under this section an amount equal to the cost of those investments to the Commission;
- (b) the amount of that cost shall be credited to the Fund; and
- (c) those investments shall be deemed to be investments of moneys standing to the credit of the Fund.

“25.—(1.) For the purposes of this Act, there shall be a Wool Disposals Profit Fund, which shall be a trust account within the meaning of section sixty-two A of the *Audit Act* 1901-1950.

Establishment
of Trust
Account.

“(2.) There shall be paid into the Fund out of the Consolidated Revenue Fund (which is appropriated accordingly) an amount equal to each amount received by the Commonwealth from the Commission under the last preceding section and any other moneys received by the Commonwealth as a result of the operations of the Joint Organization.

“(3.) Any additional moneys which arise out of investments attributable to moneys standing to the credit of the Fund form part of the Fund.

“(4.) The Commission shall pay into the Fund all interest received by the Commission after the commencement of this section from the investment of moneys held by the Commission for the purposes of distributions under this Act.

“(5.) There shall be paid out of the Fund to the Commission all moneys required by the Commission for the purposes of payments by it (including commission deductible from payments) by way of distributions under this Act commenced after the date of commencement of this section.

“(6.) The expenses and charges of the Commission in administering this Act, to the extent that they are incurred or made after the commencement of this section, shall be paid or recouped out of the Fund.

Validation of
certain
payments by
Commission.

“25A. The use by the Commission for the purposes of the distribution in respect of the declared amount of profit declared by the notice published in the *Gazette* on the twenty-fourth day of November, One thousand nine hundred and forty-nine, of moneys payable to the Commonwealth shall be deemed to have been authorized by the *Wool Realization (Distribution of Profits) Act 1948*.”

False returns or
information.

10. Section thirty-two of the Principal Act is amended by inserting after the word “to” the words “the Minister or”.