

WHEAT MARKETING (AMENDMENT) ACT.

Act No. 17, 1953.

Elizabeth II,
No. 17, 1953.

An Act to make further provision in relation to the marketing of wheat; for that purpose to amend the Wheat Industry Stabilisation Act, 1948-1951; and for purposes connected therewith. [Assented to, 3rd November, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Wheat Marketing (Amendment) Act, 1953".

(2) The Wheat Industry Stabilisation Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Wheat Marketing Act, 1948-1953.

2.

2. (1) This Act shall commence upon the day on which the Wheat Marketing Act 1953 of the Commonwealth of Australia comes into operation. No. 17, 1953.
Commence-
ment.

(2) The amendments made by paragraphs (b) and (f) of section three of this Act do not apply in relation to wheat of the season that ended on the thirtieth day of September, one thousand nine hundred and fifty-three, or of any previous season.

(3) Where, before the commencement of this Act, wheat harvested after the thirtieth day of September, one thousand nine hundred and fifty-three, was delivered or consigned to a person, firm, company or State Authority who or which was, at the time of the delivery or consignment, a licensed receiver under the Wheat Industry Stabilisation Act, 1948-1951, or under the Wheat Industry Stabilization Act 1948-1953 of the Commonwealth of Australia as in force at the time of the delivery or consignment, the wheat shall be deemed to have been delivered to the Australian Wheat Board in pursuance of the Wheat Industry Stabilisation Act, 1948, as amended by subsequent Acts and by this Act.

3. (1) The Wheat Industry Stabilisation Act, 1948-1951, is amended— Amendment
of Act No.
46, 1948.

(a) by omitting from the title the words “stabilisation of the wheat industry” and by inserting in lieu thereof the words “marketing of wheat”;

(b) (i) by omitting from the definition of “the Commonwealth Act” in section three the words “Wheat Industry Stabilization Act 1948” and by inserting in lieu thereof the words “Wheat Marketing Act 1948-1953”;

(ii) by omitting from the same section the definition of “the guaranteed price”;

(c) (i) by omitting from paragraph (a) of section nine the words “or otherwise acquire”;

(ii) Sec. 9.
(Powers of
Board.)

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(ii) by inserting next after the same paragraph the following new paragraph:—

(aa) accept wheat delivered to it in pursuance of this Act;

(iii) by omitting from paragraph (b) of the same section the words “purchased or otherwise acquired by” and by inserting in lieu thereof the words “the property of”;

Sec. 11.
(Delivery
of wheat.)

(d) by omitting from subsection five of section eleven the words “calculated on the basis of the guaranteed price” and by inserting in lieu thereof the words “as certified by the Board on the basis of the Board’s prices, at the time of the offence, for sales of wheat in the State”;

Sec. 12.
(Unauthor-
ised deal-
ings with
wheat.)

(e) (i) by inserting at the end of paragraph (b) of section twelve the word “or”;

(ii) by inserting next after the same paragraph the following new paragraph:—

(c) sell, deliver, part with the possession of or take into his possession wheat other than wheat specified in subsection four of section eleven of this Act.

(iii) by omitting from the same section the words “calculated on the basis of the guaranteed price” and by inserting in lieu thereof the words “as certified by the Board on the basis of the Board’s prices, at the time of the offence, for sales of wheat in the State”;

Subst. sec.
13 and new
sec. 13A.

Price to
be paid
for wheat.

(f) by omitting section thirteen and by inserting in lieu thereof the following sections:—

13. (1) Where wheat is delivered to the Board in pursuance of this Act, the Board shall pay for that wheat (including the corn sacks, if any, in which the wheat is delivered) an amount determined by the Board in accordance with this section.

(2) The Board shall determine amounts payable under subsection one of this section in respect of wheat of a season by—

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- (a) ascertaining the net proceeds of the disposal by the Board of all wheat of that season delivered to the Board in Australia (whether in pursuance of this Act or otherwise);
- (b) deducting from the amount so ascertained an amount calculated at the rate of three pence for each bushel of so much of the wheat of that season grown in the State of Western Australia as the Board certifies to the Minister to have become available for export to places outside Australia; and
- (c) ascertaining the share in the remaining amount of each person entitled to payment under this section by apportioning that remaining amount amongst the persons who delivered wheat of that season to the Board in Australia (whether in pursuance of this Act or otherwise) on the basis of the number of bushels of wheat so delivered by each such person, with proper allowance for differences in the quality of wheat and for transport charges for the carriage of wheat to the terminal port from the place at which the wheat was delivered to the Board, corn sacks in which wheat was supplied to the Board, and other necessary adjustments in particular cases.

(3) For the purposes of this section, the Board is not bound to preserve the identity of wheat of a season, and may keep its accounts in

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in respect of sales in such manner as will, in its judgment, attribute sales to wheat of different seasons in an equitable manner.

(4) The Board is not bound to make a final payment in respect of wheat of a season until it has disposed of the whole of the wheat of that season delivered to it in Australia (whether in pursuance of this Act or otherwise), but the Board may, with the approval of the Minister administering the Commonwealth Act, make from time to time such advance payments as it considers justified.

(5) In this section "the net proceeds", in relation to the disposal of wheat, means the net return from the disposal of the wheat after paying administration, interest, transport, storage and other charges incurred by the Board (other than charges for transport to the terminal port from the place at which the wheat is delivered to the Board).

(6) In ascertaining under subsection five of this section the net proceeds of the disposal of wheat, no account shall be taken of moneys to which section 18A of this Act, or the corresponding provision in the Commonwealth Act or an Act of another State of the Commonwealth, applies, or of costs of the Board payable out of those moneys.

Payment by
Board.

13A. (1) The amount payable under this Act in respect of any wheat shall be payable to the person who would have been entitled to receive the price of the wheat if the wheat had been lawfully sold to the Board at the time of the delivery of the wheat.

(2) The same rights (if any) shall exist against the person receiving an amount paid by the Board under this Act in respect of any wheat as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat by him, and any such rights may be enforced by action in any court of competent jurisdiction.

(3)

(3) Payment in good faith by the Board of any moneys payable under this Act to the person appearing to the Board to be entitled to receive them shall discharge the Board from any further liability in respect of those moneys. No. 17, 1953.

(g) by omitting section eighteen and by inserting in lieu thereof the following sections:— Subst. sec. 18 and new secs. 18A, 18B.

18. (1) The price at which the Board shall, in New South Wales, sell wheat (otherwise than for export from Australia or for the manufacture of goods for export from Australia) during a year shall be the appropriate price ascertained in accordance with this section. Home consumption price of wheat.

(2) Subject to this section, the price in respect of wholesale sales of bulk wheat of fair average quality free on rails at ports shall be—

(a) the International Wheat Agreement price or, if at the beginning of the year, the International Wheat Agreement is not in operation or Australia has not accepted that Agreement, export parity; or

(b) fourteen shillings per bushel, whichever is the lower.

(3) If the price applicable under subsection two of this section is less than the cost of production, the price, in the case of sales to which that subsection applies, shall, subject to subsection four of this section, be an amount per bushel equal to the cost of production.

(4) The price applicable under either of subsections two and three of this section shall be increased by an amount of one penny half-penny per bushel as a contribution towards the reimbursement of the Board for the costs of shipment of wheat to Tasmania.

(5) If the Board reports to the Minister administering the Commonwealth Act that the amounts being received by the Board by reason of the operation of subsection four of this section, together with amounts being received under

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under corresponding provisions of the Commonwealth Act and of the laws of the other States of the Commonwealth of Australia, are more or less than the amounts required to meet the costs of shipment of wheat by the Board to Tasmania, that Minister may direct the Board that the amount per bushel specified in that subsection shall be reduced or increased to such extent as he considers necessary.

(6) The price, in the case of sales other than sales specified in subsection two of this section, shall be a price ascertained by adding to or deducting from the price applicable to sales so specified an amount which makes a proper allowance for the quality of the wheat, the conditions of sale and the place of delivery.

(7) In this section—

“export parity”, in relation to sales made in a year, means the price which the Minister administering the Commonwealth Act certifies to the Board to be the price which he is satisfied was the price (expressed in Australian currency) per bushel prevailing immediately before the commencement of that year for sales by the Board on the export market of bulk wheat of fair average quality free on rails at the ports of export;

“the cost of production”, in relation to sales made in a year, means the amount notified to the Board by the Minister administering the Commonwealth Act as being the cost per bushel of the production in Australia of wheat of the season which is current at the beginning of that year, being an amount ascertained by that Minister, after consultation with the Minister for the time being administering this Act and with the appropriate Minister of each of the other States of the Commonwealth of Australia,

Australia, by taking as a basis the sum of eleven shillings and eleven pence as the cost per bushel of the production in Australia of wheat of the season that ended on the thirtieth day of September, one thousand nine hundred and fifty-three, and making such variation as he considers necessary by reason of variations in the cost of the production of wheat affecting wheat of the first-mentioned season; No. 17, 1953.

“the International Wheat Agreement price”, in relation to sales made in a year, means the price which the Minister administering the Commonwealth Act certifies to the Board to be the price which he is satisfied was the price (expressed in Australian currency) per bushel prevailing immediately before the commencement of that year for sales by the Board under the International Wheat Agreement of bulk wheat of fair average quality free on rails at the ports of export;

“year” means the period of twelve months commencing on the first day of December, one thousand nine hundred and fifty-three, and each subsequent period of twelve months.

18A. (1) Notwithstanding anything contained in this Act but subject to this section, the Board shall keep a separate account of the moneys received by the Board by reason of the operation of subsection four of section eighteen of this Act, and of payments made out of those moneys, and shall not apply those moneys except in accordance with this section. Special
account for
freight to
Tasmania.

(2) The Board may combine the account required to be kept under subsection one of this section with any similar account or accounts to
be

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be kept by it under the Commonwealth Act or under the law of another State or States of the Commonwealth of Australia.

(3) The Board shall use the moneys referred to in subsection one of this section in meeting the costs of shipment of wheat by the Board to Tasmania, and shall not use for that purpose any other moneys derived by it from the sale of wheat delivered to it in pursuance of this Act.

(4) Any moneys referred to in subsection one of this section which remain unexpended after the Board has disposed of the whole of the wheat of the last season to which this Act applies delivered to the Board in Australia shall be applied by the Board for the benefit of the wheat industry in such manner as the Minister administering the Commonwealth Act, after consultation with the Minister for the time being administering this Act and with the appropriate Minister of each of the other States of the Commonwealth of Australia, directs.

Use of
funds by
Board.

18b. Subject to the Board's paying or making provision for the payment of amounts required to be paid by it under this Act, nothing in this Act shall be deemed to prevent the Board from applying moneys received by it by reason of the exercise of its functions under this Act for the purposes of the Commonwealth Act or an Act of another State of the Commonwealth of Australia relating to the marketing of wheat.

Sec. 23.
(Applica-
tion of
Act.)

(h) by omitting from section twenty-three the word "fifty-three" and by inserting in lieu thereof the word "fifty-six".

(2) Notwithstanding the repeal of section eighteen of the Wheat Industry Stabilisation Act, 1948-1951, effected by paragraph (g) of subsection one of this section, the prices applicable under the said section eighteen immediately before the commencement of this Act shall continue to be applicable to sales made before the first day of December, one thousand nine hundred and fifty-three.