



ANNO QUINTO

# GEORGII V REGIS.

A.D. 1914.

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No. 1168.

An Act to make provision for Ensuring and Distributing Supplies of Grain and Fodder, and for purposes incident thereto and consequent thereon.

[*Assented to, November 12th, 1914.*]

**W**HEREAS it is expedient, in view of the drought now prevailing in the State of South Australia, to make extraordinary provision for ensuring that there will be sufficient supplies of grain and fodder available for the use of persons requiring the same: Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows: Preamble.

1. This Act may be cited as "The Grain and Fodder Act, 1914." Short title.

2. In this Act, unless, from the context or subject-matter, it is clear that some other meaning is intended,— Interpretation.

"Acquired" means acquired under this Act:

"Board" means "The Grain and Fodder Board" constituted under this Act:

"Chairman" means Chairman of the Board:

"Deputy-Chairman" means Deputy-Chairman of the Board:

"Fodder" means hay, chaff, bran, pollard, or any other commodity used for feeding livestock:

"Grain" means wheat, oats, barley, or any other cereal or seed:

"Inspector" means Inspector appointed under this Act:

"Justice" means Justice of the Peace for the State:

"Member" means Member of the Board:

"Minister"

*The Grain and Fodder Act.—1914.*

“Minister” means the Minister of the Crown to whom the administration of this Act is, for the time being, committed by the Governor :

“Regulation” means regulation made under this Act :

“The Prices Regulation Commission” or “the Commission” means the Prices Regulation Commission constituted by “The Prices Regulation Act, 1914” :

“The State” means the State of South Australia :

“This Act” includes regulations.

No. 1161 of 1914.

*The Grain and Fodder Board and Officers.*

Constitution and appointment of Grain and Fodder Board.

3. (1) A Board, to be called “The Grain and Fodder Board,” shall be constituted.

(2) The Board shall consist of three members appointed by the Governor.

(3) The Board shall be constituted upon the publication in the *Government Gazette* of a notice of the appointment of the original three members.

(4) Notice of every appointment of a member shall be published in the *Government Gazette*.

The Board to be a body corporate.  
Its general powers.

4. (1) The Board shall be a body corporate, and shall have perpetual succession and a common seal, and by the name of “The Grain and Fodder Board” shall be capable of—

(a) suing and being sued and of submitting to arbitration :

(b) owning, holding, and disposing of all kinds of property, real and personal :

(c) entering into and carrying out such contracts, and doing and suffering all such other acts and things, as may be necessary or convenient for the purposes of this Act.

(2) Notwithstanding anything in this Act, it shall be lawful for the Governor, if and when satisfied that the functions of the Board have been completely performed and that there is no further need for the existence of the Board, to declare, by proclamation published in the *Government Gazette*, that the Board shall cease to exist as from the date fixed in that behalf by such proclamation, and the Board shall cease to exist accordingly.

Chairman and Deputy-Chairman.

5. The Governor shall appoint one of the members to be the Chairman of the Board, and may appoint another member to be the Deputy-Chairman of the Board.

Who to preside at meetings.

6. (1) The Chairman, when present, shall preside at all meetings of the Board. In the absence of the Chairman from any meeting the Deputy-Chairman shall preside.

(2) The Chairman or Deputy-Chairman, when presiding, shall have a casting as well as a deliberative vote.

7. Any

*The Grain and Fodder Act.—1914.*

7. Any two members shall constitute a quorum of the Board.

Quorum.

8. (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.

Defects in appointment not to invalidate proceedings of Board.

(2) All acts and proceedings of the Board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if every such member had been duly appointed and was qualified and entitled to act, and had acted, as a member of the Board, and as if the Board had been properly and fully constituted.

9. In case of the illness or other incapacity, or absence from the State, of any member, or of a vacancy in the office of any member, the Governor may appoint some person to be a deputy member of the Board during such illness, incapacity, or absence, or until such vacancy is filled. Every person so appointed shall, until his appointment is terminated by notice in the *Government Gazette*, have all the powers, rights, and privileges, and perform all the duties and functions of a member of the Board.

Deputy member.

10. The Minister may appoint such inspectors and other officers and servants as he considers necessary for the purposes of this Act; and he may authorise other persons to do such acts and things as he considers necessary for carrying out the purposes of this Act.

Officers and servants.

*Acquisition of Grain and Fodder by the Board.*

11. The Board is hereby empowered to acquire all or any quantity of any grains and fodders now or hereafter within the State: Provided that the power hereby conferred shall not be exercisable after the thirtieth day of September, nineteen hundred and fifteen.

The Board empowered to acquire grain and fodder.

12. (1) The power of acquisition hereby conferred on the Board may be exercised in either of the following manners:—

Method of exercising Board's power to acquire.

- i. The Board, or any member on its behalf, may purchase any grain or fodder:
- ii. Any member, or any inspector, or any person thereunto authorised by the Board, may take possession (with or without the consent of the owner or any other person) of any grain or fodder wherever it may be found:
- iii. The Board may give to the owner of any grain or fodder, or to the person apparently having the custody thereof or in occupation of the premises where it is, notice in writing that it is the intention of the Board to acquire such grain or fodder.

(2) Upon the purchase of any grain or fodder or upon possession thereof being taken as provided by subsection (1) hereof, or upon notice in respect thereof being given as so provided, such grain or fodder shall vest absolutely in the Board, and shall, subject to any dispositions thereof made by the Board under this Act, be and remain the property of the Board for the purposes of this Act.

*Payment*

*The Grain and Fodder Act.—1914.**Payment for Grain and Fodder acquired by the Board.*

Price to be as agreed or as fixed by the Prices Regulation Commission.

**13.** (1) The Board shall pay for any grain or fodder acquired by it such price—

(a) as is agreed between the Board and the owner, or,

(b) if the price is not so agreed within fourteen days after the grain or fodder is acquired, as is fixed by the Prices Regulation Commission as hereinafter provided.

Commission to fix the price on application.

(2) Upon the application in writing of the Board or of the owner of, or any person claiming to be interested in, such grain or fodder, the Commission shall fix the price to be paid therefor.

On what principle the Commission is to fix prices.

(3) The price so to be fixed shall be what the Commission consider to have been the market value of such grain or fodder at the place and at the time where and when it was acquired.

Additional payment may be made in certain cases.

(4) Notwithstanding that the price of any wheat has been fixed by the Commission, the Board may, in respect of any part of such wheat which it considers specially suitable for seed and true to name, pay such (if any) additional sum as it considers proper.

Interest to be paid from time when possession taken.

(5) In addition to the price to be paid for any grain or fodder as provided by this section, the Board shall pay interest thereon at the rate of five per centum per annum, calculated from the time when such grain or fodder is taken by or on behalf of the Board, or is delivered to the Board at the railway station or siding, or port, nearest to the place where it is at the time when it is acquired by the Board, until the time of payment.

Terms and conditions of storage pending delivery to the Board.

**14.** (1) When the Board does not take delivery or possession of any grain or fodder immediately it is acquired, the storage thereof shall be upon and subject to such terms and conditions—

(a) as are agreed between the Board and the person having the custody thereof, or,

(b) if the terms and conditions are not so agreed within fourteen days after it is acquired, as are fixed by the Commission as hereinafter provided.

Commission to fix same on application.

(2) Upon the application in writing of the Board or of the person having the custody of such grain or fodder, the Commission shall fix the terms and conditions upon and subject to which it shall be stored, or shall be deemed to have been stored, from the time when it was acquired by the Board until delivery or possession thereof is taken by the Board.

Certain provisions of The Prices Regulation Act, 1914, to apply. No. 1151 of 1914.

**15.** For the purposes of fixing prices and terms and conditions under this Act, and in connection with its functions under this Act, the Commission shall have all the powers conferred upon it by “The Prices

*The Grain and Fodder Act.—1914.*

Prices Regulation Act, 1914"; and all the provisions of sections 19 to 33 inclusive of that Act, *mutatis mutandis*, shall, in connection with all matters under this Act, apply to the Commission and to all other persons as if they were repeated in this Act.

**16.** (1) The sum to be paid by way of price for any grain or fodder acquired by the Board, and any other sums to be paid in respect thereof, shall be paid to the person who appears to the Board to be the owner of such grain or fodder: Provided that—

To whom payments  
to be made.

- i. the Board may deduct from such sums, or any of them, any amounts which the Board is satisfied are due to any persons in respect of liens or charges on or in respect of such grain or fodder, and may pay such amounts to the persons who appear to the Board to be entitled thereto:
- ii. if in doubt as to what persons are entitled to any of such sums, or any part thereof, the Board may pay such sum, or part, into the Supreme Court; and the moneys so paid in shall be subject to any orders of the Court, or a Judge thereof, made on application by or on behalf of the persons interested or claiming to be interested therein:
- iii. the Board shall not be liable to any action or other proceeding in respect of any money *bonâ fide* paid by it to any person, or into Court, under this Act.

(2) Any application in respect of any money paid into Court under this section may be made to a Judge in Chambers on a Judge's summons: Provided that the Judge may hear the matter in Chambers or in Court, and may, if he thinks proper, refer any question of law to the Full Court.

(3) No Court fees shall be payable on the payment into or out of Court of any such money, nor in respect of any application or other proceeding concerning such money.

*Search for Grain and Fodder, and Disposal of Grain and Fodder vested in the Board.*

**17.** Any member of the Board, or any inspector, or any person thereunto authorised in writing by the Board, may at any time in the day or night enter into and search any premises or vessel, or part thereof, where any grain or fodder is or is supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises, or vessel, or part, and may break open and search any packages, sacks, or other things in which any grain or fodder is or is supposed to be.

Power to search for  
grain or fodder.

Cf. Act 1151, 1914,  
s. 18.

**18.** All grain and fodder acquired by the Board may be taken to and stored in such places as are provided by the Minister for that purpose, and may be disposed of in such manner as the Board considers best for giving effect to the objects of this Act.

Storing and disposal  
of grain and fodder  
vested in the Board.

Cf. Act 1151,  
1914, s. 16.

*Effect*

*The Grain and Fodder Act.—1914.**Effect of Acquisition by the Board on Contracts to Deliver.*

Taking by or delivery to the Board to discharge obligation to deliver to other persons.

19. In case any grain or fodder is, at the time when it is acquired by the Board, in the custody of any person who under any contract is bound to deliver it, or any grain or fodder in lieu thereof, to or in accordance with the order of any other person, the obligation so to deliver shall be discharged upon the taking of such grain or fodder by or on behalf of the Board or the delivery thereof to the Board, but without prejudice to any claim which such other person may have to the price or any other sum paid, or to be paid, by the Board for or in respect of such grain or fodder, or to any part of such price or other sum.

*Regulations.*

Governor may make regulations.

20. (1) The Governor may make all such (if any) regulations as he deems necessary or convenient for the purposes of this Act, or for more effectually carrying out its objects, and may by any regulation prescribe a penalty not exceeding Fifty Pounds for any offence against that or any other regulation.

(2) All regulations—

(a) shall be published in the *Government Gazette* ;

(b) from the date of such publication, or from a later date fixed by the order making the same, shall (subject to subsection (3) hereof) be of the same effect as if they were enacted by this Act ; and

(c) shall be laid before both Houses of Parliament within fourteen days after such publication if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session of Parliament.

(3) If either House of Parliament passes a resolution disallowing any regulation, of which resolution notice has been given at any date within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same Session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed as mentioned in subsection (3) hereof, notice of such resolution shall be published in the *Government Gazette*.

*Offences, Evidence, and Proceedings for Offences.*

Obstructing officers and others.

21. Any person who in any way resists, interferes with, hinders, or obstructs any member of the Board, inspector, officer, servant, or person, in the exercise or discharge of any of his powers or duties under

*The Grain and Fodder Act.—1914.*

under this Act shall be guilty of an offence, and be liable to a penalty not exceeding One Hundred Pounds or to be imprisoned for any term not exceeding six months.

**22.** A copy of the *Government Gazette* purporting to contain a notice of the appointment of any member, Chairman, or Deputy-Chairman, or of the appointment or authorisation of any inspector, officer, servant, or person, under this Act, shall, for all purposes and on all occasions, be conclusive evidence of the fact, tenor, and validity of such appointment, or authorisation, and of the facts stated, recited, or assumed therein; and no such appointment or authorisation shall be invalid by reason of any thing required as preliminary or incidental thereto not having been duly done.

*Gazette to be conclusive evidence of appointments, declarations, &c.*

**23.** (1) All proceedings in respect of offences against this Act, not being indictable offences, shall be by information heard and determined in a summary way by a Special Magistrate, or any two Justices, and shall be regulated by the Ordinance No. 6 of 1850, and any amendments thereof, or any other Act or Acts regulating summary proceedings before Justices of the Peace.

*Summary proceedings for offences.*

(2) All convictions and orders made by such Magistrate or Justices may be enforced as provided by the said Ordinance, or any other such Act as aforesaid.

**24.** (1) There shall be an appeal from—

*Appeal.*

(a) any conviction by any Special Magistrate or Justices,

(b) any order of a Special Magistrate or Justices dismissing any information, or

(c) any other order made by a Special Magistrate or Justices,

under this Act.

(2) Such appeal shall be to the Local Court of Adelaide in its Full Jurisdiction.

(3) The proceedings on such appeal shall be regulated by the Ordinance No. 6 of 1850, and any amendments thereof, or any other Act regulating appeals to Local Courts: Provided that the Local Court may make such order as to costs as it thinks fit, and the amount of costs so ordered may exceed Ten Pounds.

**25.** (1) The Local Court, upon the hearing of any such appeal, may state a special case or cases for the opinion of the Supreme Court.

*Special case.*

(2) The Supreme Court shall hear and decide any such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to costs, as to the said Court appears just.

(3) The Supreme Court may send the special case back for amendment, or may itself amend the same.

(4) The

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*The Grain and Fodder Act.—1914.*

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(4) The Magistrate or Justices or the Local Court shall make an order in respect to the matters referred to the Supreme Court in conformity with the certificate of the Supreme Court, or of any Judge thereof.

(5) Such order of the Magistrate, or Justices, or Local Court may be enforced in manner provided by section 23 or otherwise by law.

*Financial.*

How expenses to be provided.

**26.** (1) The Treasurer of the State may, from time to time, make advances to the Minister and to the Board for carrying out the purposes of this Act.

(2) So far as practicable, such advances shall be repaid, and the other expenses of administering this Act shall be defrayed, out of the moneys paid to the Board for grain and fodder disposed of by it; and any deficiency which may arise shall be made good out of moneys provided by Parliament for that purpose.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.