



ANNO DECIMO SEPTIMO

## ELIZABETHAE II REGINAE

A.D. 1968

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### No. 17 of 1968

An Act relating to the marketing of wheat and the stabilization of the wheat industry.

[Assented to 28th November, 1968.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

#### PART I. PRELIMINARY.

Short title.

1. This Act may be cited as the "Wheat Industry Stabilization Act, 1968".

Commencement.

2. This Act shall come into operation on the day on which the *Wheat Industry Stabilization Act 1968* of the Commonwealth comes into operation but if the *Wheat Industry Stabilization Act 1968* of the Commonwealth has come into operation on a day prior to the day on which this Act is assented to by the Governor this Act shall be deemed to have come into operation on the day on which the *Wheat Industry Stabilization Act 1968* of the Commonwealth came into operation.

Arrangement of Act.

3. This Act is arranged as follows :—

PART I.—PRELIMINARY, ss. 1-7.

PART II.—POWERS OF THE AUSTRALIAN WHEAT BOARD, ss. 8-10.

PART III.—DELIVERY OF WHEAT TO THE AUSTRALIAN WHEAT BOARD  
ss. 11-21.

PART IV.—MISCELLANEOUS, ss. 22-24.

4. (1) The Wheat Industry Stabilization Act, 1963, and the Wheat Industry Stabilization Act, 1964, are repealed. Repeal and savings.

(2) Notwithstanding the repeal effected by subsection (1) of this section, but subject to subsection (2) of this section, any provisions of an Act that would, but for that repeal, have continued to apply to, or in relation to, wheat harvested before the first day of October, 1968, continue so to apply, but this subsection does not prejudice the application to, or in relation to, any such wheat of a provision of this Act that is expressed to apply to, or in relation to, wheat of any season.

(3) Any moneys paid to the Board by the Commonwealth in respect of losses, in relation to wheat of a season to which the Wheat Industry Stabilization Act, 1963-1964, applied, arising from the devaluation of sterling and other currencies shall be deemed to have been and to be part of the net return from the disposal by the Board of wheat of that season.

(4) A reference in any of the provisions referred to in subsection (2) of this section to the Australian Wheat Board established or continued in existence by any of those provisions shall, in relation to things done or to be done after the commencement of this Act, be read as a reference to the Board as continued in existence by the Commonwealth Act and conducting its proceedings in accordance with that Act.

(5) Wheat harvested on or after the first day of October, 1968, and delivered to the Board in the State before the commencement of this Act (including wheat delivered to a person who was a licensed receiver for the purposes of the Wheat Industry Stabilization Act, 1963-1964) shall be deemed to have been delivered in pursuance of section 11 of this Act, and any advance payment made by the Board in respect of any such wheat before the commencement of this Act shall be deemed to have been made in pursuance of this Act.

5. In this Act, unless the contrary intention appears— Definitions.

“licensed receiver” means a person, firm, company or State authority licensed by the Board to receive wheat on behalf of the Board :

“season”, in relation to wheat, means the period of twelve months, commencing on the first day of October in any year, during which the wheat was harvested :

“the Board” means the Australian Wheat Board continued in existence by the Commonwealth Act :

“the Commonwealth Act” means the *Wheat Industry Stabilization Act 1968* of the Commonwealth, and includes that Act as amended at any time :

“the Commonwealth Minister” means the Minister of State of the Commonwealth administering the Commonwealth Act, or another Minister of State of the Commonwealth acting for and on behalf of that Minister :

“the guaranteed price”, in relation to wheat of a season, has the same meaning as in the Commonwealth Act :

“wheat” means wheat of a season referred to in subsection (1) of the next succeeding section :

“wheat products” has the same meaning as in the *Wheat Export Charge Act 1968* of the Commonwealth.

Seasons to which Act applies.

6. (1) Subject to this section, this Act applies in relation to the season that commenced on the first day of October, 1968, and each of the next six succeeding seasons.

(2) Subsections (7) and (8) of section 14 of this Act apply only in relation to the season that commenced on the first day of October, 1968, and the next four succeeding seasons.

Act to apply subject to Constitution.

7. (1) If, by reason of the Constitution of the Commonwealth, a provision of this Act, or a notice under a provision of this Act, cannot validly apply in relation to any particular wheat or class of wheat, that provision or notice shall be construed as intended to operate in relation to all wheat in relation to which it purports to apply, being wheat in relation to which it can validly apply.

(2) The last preceding subsection is in addition to, and not in substitution for, any other provision relating to the construction of Acts and statutory instruments subject to the Constitution of the Commonwealth.

## PART II.

### POWERS OF THE AUSTRALIAN WHEAT BOARD.

Powers of Board.

8. (1) The Board may—

- (a) purchase wheat, wheaten flour, semolina, corn sacks, jute or jute products ;
- (b) accept the delivery of wheat to it ;
- (c) sell or dispose of, or make agreements for the sale or disposal of, wheat, wheaten flour, semolina, corn sacks, jute or jute products ;
- (d) grist or arrange for the gristing of wheat, and sell or otherwise dispose of the products of the gristing ;

(e) manage and control all matters connected with, or arising out of, the handling, storage, protection, treatment, transfer, shipment or sale of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board ;

and

(f) do all things that the Board is required or permitted by this Act to do or that are conducive to the exercise of the foregoing powers or are necessary or convenient to be done by the Board for giving effect to this Act.

(2) The Commonwealth Minister may give directions to the Board concerning the performance of its functions and the exercise of its powers, and the Board shall comply with those directions.

9. A member of the Board is not personally liable for an act of the Board or of the member acting as such.

No personal liability on members of Board.

10. (1) Subject to this section, the Board may grant a licence in writing, subject to such conditions as are specified in the licence, to a person, firm, company or State authority to receive wheat on behalf of the Board, and may cancel or suspend any such licence.

Licensed receivers.

(2) A licence to receive wheat on behalf of the Board that was in force immediately before the commencement of this Act shall be deemed to have been granted under this section.

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### PART III.

#### DELIVERY OF WHEAT TO THE AUSTRALIAN WHEAT BOARD.

11. (1) Subject to this Act, a person who is in possession of wheat may deliver that wheat to the Board.

Delivery of wheat.

(2) Subject to this section, the Board may—

(a) by notice in writing served personally on the person to whom it is addressed or served on that person by post at his usual or last-known place of abode or business ;

or

- (b) by notice published in the *Gazette* and addressed to persons generally or to persons included in a class of persons,

require the person or each person, as the case may be, to whom the notice is addressed—

- (c) to deliver to the Board, in accordance with any directions in the notice, any wheat that is in the possession of that person ;

or

- (d) to deliver to the Board, in accordance with any directions in the notice, any wheat that, during such period as is specified in the notice, comes into the possession of that person.

(3) Upon delivery of wheat to the Board under this section, the wheat (including any corn sacks in which the wheat is contained) becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts.

(4) Nothing in this section applies to—

- (a) wheat retained by the grower for use on the farm where it is grown ;

- (b) wheat that has been sold by the Board ;  
or

- (c) wheat sold or delivered to a person with the approval of the Board.

(5) A person shall not—

- (a) without reasonable excuse, refuse or fail to deliver any wheat to the Board as required by a notice under subsection (2) of this section ;  
or

- (b) deliver to the Board wheat that has previously been sold by the Board.

**Penalty :** An amount calculated, in respect of the number of bushels of the wheat in respect of which the offence is committed, at the rate of—

- (a) an amount per bushel equal to three times the guaranteed price for wheat of the season that is current at the time of the offence ;

or

- (b) if there is no such guaranteed price—Five dollars per bushel,

or imprisonment for six months, or both.

**12.** (1) Delivery of wheat to the Board may be made by delivering the wheat to a licensed receiver and not otherwise, and the delivery is not effective unless and until the delivery is accepted by the licensed receiver.

Delivery to  
licensed  
receiver.

(2) Nothing in this Act shall be taken to affect the operation of a provision of a law of the State with respect to the acceptance, or refusal of acceptance, by a licensed receiver of the delivery of wheat.

(3) A person who delivers wheat to a licensed receiver shall, at the same time, furnish to the licensed receiver in writing the names and addresses of all persons known by him to have or to claim an interest in the wheat, in any corn sacks in which the wheat is contained or in the payment to be made for the wheat or corn sacks, and all particulars known to him of those interests.

**13.** (1) Except as provided in section 11 or section 12 of this Act, or with the consent in writing of the Board, a person shall not—

Unauthorized  
dealings with  
wheat.

(a) sell, deliver or part with the possession of, or take into his possession, wheat of any season other than wheat specified in paragraph (b) or (c) of subsection (4) of section 11 of this Act ;

(b) part with the possession of, or take into his possession, wheat of any season that is the property of the Board ;

or

(c) purport to sell or offer for sale, or purport to purchase or offer to purchase (otherwise than from the Board), wheat of any season that is the property of the Board.

Penalty: An amount calculated in respect of the number of bushels of the wheat in respect of which the offence is committed, at the rate of—

(a) an amount per bushel equal to three times the guaranteed price for wheat of the season that is current at the time of the offence ;

or

(b) if there is no such guaranteed price—Five dollars per bushel,

or imprisonment for six months, or both.

(2) For the purposes of this section, a person shall not be taken to part with the possession of wheat by reason only of the fact that he uses the wheat on the farm where it was grown.

Price to be  
paid for  
wheat.

14. (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 (1) of this section in respect of wheat of a season by—

(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 of the net proceeds so ascertained an amount determined by the Board having regard to the extent to which freight charges in respect of the export of wheat of that season from the State of Western Australia are lower than freight charges in respect of the export of wheat for that season from other places in Australia, but not exceeding an amount calculated at the rate of two and one-half cents per bushel in respect of the wheat of that season exported from the State of Western 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, additional costs incurred by the Board in the handling and storage of wheat delivered to the Board in corn sacks 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 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 Commonwealth Minister, make from time to time such advance payments as it considers justified.

(5) Subject to this section, the net proceeds of the disposal of wheat of a season shall, for the purposes of this section, be deemed to be the net return from the disposal of the wheat (including corn sacks in which the wheat was sold) after paying—

(a) any charge imposed by the *Wheat Export Charge Act* 1968 of the Commonwealth in relation to wheat of that season ;

and

(b) costs (including interest and costs of administration, storage and transport, other than transport to the terminal port from the place at which the wheat is delivered to the Board) incurred by the Board, to the extent that they relate wholly to wheat of that season or are reasonably allocated by the Board to wheat of that season.

(6) In ascertaining the net proceeds of the disposal of wheat of a season—

(a) moneys received by the Board under a policy of insurance in respect of wheat of that season, or in respect of a transaction in relation to any such wheat, shall be deemed to be a return from the disposal of that wheat ;

(b) there shall be taken into account such of the payments made or received by the Board in accordance with subsection (2) of section 13 of the Commonwealth Act as the Board considers may equitably be related to wheat of that season ;

and

(c) no account shall be taken of moneys to which section 21 of this Act, or a corresponding provision of the Commonwealth Act or of an Act of another State, applies or of costs of the Board payable out of those moneys.

(7) Where the average price per bushel contracted to be paid to the Board for wheat of a season in relation to which, by virtue of subsection (2) of section 6 of this Act, this subsection applies exported by the Board, or sold by the Board for export, is less than the guaranteed price, the net proceeds from the disposal of wheat of that season by the Board shall, for the purposes of this section, be deemed to be increased by the amount that becomes payable to the Board in respect of that season under the Commonwealth Act out of the Wheat Prices Stabilization Fund referred to in that Act.



(8) In ascertaining the average price for the purposes of subsection (7) of this section—

(a) a price contracted to be paid, in any currency, in respect of a sale other than a sale of fair average quality bulk wheat free on board at the port of export shall be deemed to be the price that would have been the corresponding price, in that currency, for a sale of the same quantity of fair average quality bulk wheat free on board at the port of export ;

and

(b) where the price contracted to be paid to the Board for any wheat or, where the last preceding paragraph is applicable, the price that is, by virtue of that paragraph, to be deemed to be the price contracted to be paid to the Board for any wheat, is expressed in a currency other than Australian currency, that price shall be converted to its equivalent in Australian currency according to the appropriate rate of exchange applicable at the date of the contract or, where the price contracted to be paid was not, at the date of the contract, an ascertained amount, at the date on which the amount of the price became ascertained.

(9) The obligation of the Board under this section in respect of any wheat is subject to the operation of section 8 of the *Wheat Tax Act 1957-1966* of the Commonwealth.

Payment by  
Board.

15. (1) The amount payable under this Act in respect of any wheat, or wheat and corn sacks, is 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) exist against the person receiving an amount paid by the Board under this Act in respect of wheat, or wheat and corn sacks, as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat, or wheat and corn sacks, by him, and any such rights may be enforced by action in any court that would have had jurisdiction if the moneys were the proceeds of such a sale or purported sale.

(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 discharges the Board from any further liability in respect of those moneys.

(4) Except as provided in subsection (5) of this section, any arrangement having effect as an assignment of moneys payable by the Board in respect of wheat, or wheat and corn sacks, delivered to the Board (not including an arrangement

evidenced by a bill of sale for the time being registered pursuant to the Bills of Sale Act, 1886-1940 as amended) is void as against the Board.

(5) Where a person has assigned moneys payable to him by the Board in respect of wheat, or wheat and corn sacks, delivered or to be delivered to the Board in payment of, or as security for payment of, an amount payable by that person for corn sacks supplied to him, the Board may pay those moneys to the assignee.

(6) Notwithstanding any other provision of this Act but subject to subsection (7) of this section, the Board may deduct from the amount otherwise payable under this Act to any person (hereinafter called "the payee"), in respect of wheat harvested on and after the first day of October, 1968, the following amounts, namely :—

(a) where the payee is a member of South Australian Co-operative Bulk Handling Limited, any amounts of money which the payee by writing authorizes the Board to deduct and pay to that company in respect of tolls which the payee has agreed to pay to the company ;

or

(b) where the payee is not a member of South Australian Co-operative Bulk Handling Limited, any amount payable to that company as the whole or part of a charge for the receipt, storage or handling of wheat delivered by the payee, other than or in excess of the amount payable in the like circumstances by a member of the company.

(7) The Board shall not deduct any amount pursuant to paragraph (b) of subsection (6) of this section unless the charge in respect of which the deduction is made has been fixed by the company, approved by the Auditor-General and published in the *Gazette*.

(8) Where the Board deducts any amount pursuant to subsection (6) of this section, the Board shall pay it to the company and such payment shall, to the extent of the amount so paid, be a discharge of the Board's liability to the payee from whose payment the deduction was made.

**16.** (1) A person who—

(a) delivers to a licensed receiver wheat harvested before the fifteenth day of September, 1968 ;

or

(b) delivers to a licensed receiver, after the final delivery day in respect of a season, wheat harvested in that season,

Declaration  
to be furnished  
as to old  
season's  
wheat.

shall make and forward to the licensed receiver a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

(2) For the purposes of this section, the final delivery day in respect of a season is the day declared to be the final delivery day in respect of that season by notice published in the *Commonwealth of Australia Gazette* under the Commonwealth Act.

Entry of  
premises,  
seizure of  
wheat, etc.

17. (1) A member of the police force of the Commonwealth or of the State who is authorized by the Board or the Chairman of the Board to act under this section may—

(a) at all reasonable times, enter premises and inspect any stock of wheat of any season or of corn sacks, and any accounts, books and documents relating to wheat of any season or to corn sacks ;

and

(b) take possession of and remove any wheat of any season that is the property of the Board, or wheat of a season referred to in section 6 of this Act the delivery of which has been lawfully demanded by the Board, and any corn sacks in which any such wheat is contained or that are the property of the Board.

(2) A person shall not hinder or obstruct a person in the exercise of powers under this section.

(3) Wheat of a season referred to in section 6 of this Act, other than wheat that is the property of the Board, of which possession is taken under subsection (1) of this section, and any corn sacks in which the wheat is contained, shall, for the purposes of this Act, but without affecting the liability of a person for an offence, be deemed to be delivered to the Board under this Act.

Board may  
require  
returns.

18. (1) For the purposes of this Act, the Board may, by notice in writing served on the person to whom it is addressed either—

(a) personally ;

or

(b) by post at his last-known place of abode or business, require a person to furnish in writing to the Board, within the time specified in the notice, such information relating to wheat of any season, wheaten flour, semolina, corn sacks, jute or jute products as is specified in the notice.

(2) A person shall not, without reasonable excuse—

(a) refuse or fail to comply with a requirement under this section ;

or

(b) furnish to the Board any information that is false or misleading in a particular.

19. A person having wheat the property of the Board in his possession or under his care shall exercise proper care and take all proper and reasonable precautions and do all things necessary to preserve and safeguard that wheat and to keep it free from damage or deterioration.

Proper care to be taken of wheat owned by Board.

20. (1) The price at which, on or after the first day of December, 1968, and before the first day of December, 1973, the Board shall sell wheat for use or consumption in Australia is the appropriate price ascertained in accordance with this section.

Home consumption price of wheat.

(2) Subject to this section, the price per bushel in respect of a wholesale sale of bulk wheat of fair average quality free on rails at a port of export is one dollar seventy cents.

(3) The price otherwise applicable under subsection (2) of this section shall be increased or decreased by the amount, if any, by which the guaranteed price of wheat of the season that was current at the beginning of the year in which the sale was made exceeds, or is less than, one dollar forty-five cents per bushel.

(4) For the purpose of reimbursing the Board for costs of shipment of wheat to the State of Tasmania, the price applicable under subsections (2) and (3) of this section shall be increased by an amount of one cent per bushel, or, if the Commonwealth Minister has made a determination or determinations under the next succeeding subsection, by the amount applicable in accordance with the latest such determination.

(5) If the Board, at any time, reports to the Commonwealth Minister that the amounts being received by the Board by reason of the operation of subsection (4) of this section, together with amounts being received under corresponding provisions of the Commonwealth Act and of the laws of the other States, are greater or less than the amounts required to meet the costs of shipment of wheat by the Board to the State of Tasmania, the Minister may determine that the amount per bushel to be added to the price in accordance with that subsection shall be reduced or increased to such extent as he considers necessary.

(6) The price in respect of a sale other than a sale specified in subsection (2) of this section is a price per bushel ascertained by adding to or deducting from the price per bushel applicable to sales so specified an amount that makes a proper allowance for the quality of the wheat, the conditions of sale and the place of delivery.

(7) In this section "year" means the period of twelve months commencing on the first day of December, 1968, and each subsequent period of twelve months.

(8) Notwithstanding the repeal of section 19 of the Wheat Industry Stabilization Act, 1963-1964—

(a) the prices for sales of wheat by the Board that were applicable under that section immediately before the commencement of this Act continue to be applicable to sales made after the commencement of this Act and before the first day of December, 1968 ;

and

(b) all moneys received by the Board in respect of such sales by reason of the operation of subsections (3) and (4) of that section shall be deemed to be moneys to which subsection (1) of section 21 of this Act applies.

Special  
account for  
freight to the  
State of  
Tasmania.

**21.** (1) Notwithstanding any other provision of 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 subsections (4) and (5) of section 20 of this Act, and of payments made out of those moneys, and shall not apply those moneys except in accordance with this section.

(2) The Board may combine the account required to be kept under subsection (1) of this section with any similar account or accounts to be kept by it under the Commonwealth Act or under the law of another State or States.

(3) The Board shall use the moneys referred to in subsection (1) of this section in meeting the costs of shipment of wheat by the Board to the State of 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 (1) of this section that remain unexpended after the Board has disposed of the whole of the wheat of the season ending on the thirtieth day of September, 1973, 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, after consultation with the appropriate Minister of each State, directs.

(5) Any moneys that, immediately before the commencement of this Act, were standing to the credit of the account kept by the Board for the purposes of section 20 of the Wheat Industry Stabilization Act, 1963-1964 shall be deemed to be moneys to which subsection (1) of this section applies.

PART IV  
MISCELLANEOUS

**22.** 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 relating to the marketing of wheat. Use of funds  
by Board.

**23.** (1) A person who contravenes or fails to comply with a provision of this Act for which no other penalty is provided is guilty of an offence punishable by a fine not exceeding two hundred dollars or imprisonment for a term not exceeding six months. Offences.

(2) Proceedings for offences against this Act may be heard and determined summarily.

**24.** The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular without limiting the generality of the foregoing making provision for penalties not exceeding a fine of two hundred dollars or imprisonment for six months, or both, for offences against the regulations. Regulations.

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

J. M. NAPIER, Lieutenant-Governor.