

WHEAT AND WHEAT PRODUCTS ACT.

Act No. 3, 1936.

Edward VIII,
No. 3, 1936.
An Act relating to wheat and wheat products; to constitute a Wheat Board; to provide for the licensing of receivers of wheat; to amend the Wheat Act, 1927; and for purposes connected therewith. [Assented to, 3rd April, 1936.]

BE it enacted by the King'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. **1.** (1) This Act may be cited as the “Wheat and Wheat Products Act, 1936.”

**Commence-
ment.** (2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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Construc-
tion.

(3) This Act and any regulations or notifications made thereunder shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or of any regulation or notification made thereunder or the application thereof to any person or circumstance is held invalid, the remainder of this Act or of such regulation or notification and the application of such provision to other persons or circumstances shall not be affected.

2. Upon the issue, by the Governor-General in Council of the Commonwealth, under any Act passed by the Parliament of the Commonwealth during the year one thousand nine hundred and thirty-five, of a proclamation directing that any wheat grown in the Territory for the Seat of Government from a crop sown in the year one thousand nine hundred and thirty-six or in any subsequent year during which that Act continues in operation, shall be subject to this Act, that wheat shall be so subject accordingly, and this Act shall apply to that wheat as if it were grown in the State of New South Wales and as if that Territory were part of New South Wales.

Application
of Act to
Territory
for the
Seat of
Govern-
ment.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Interpreta-
tion.

“Board” means the Wheat Board constituted under this Act.

“Person” includes a partnership or firm or company or society or any body of persons corporate or unincorporate.

“Prescribed” means prescribed by this Act or by the regulations.

“Receiver” means any person licensed under this Act to operate as a receiver of wheat.

“Regulations” means regulations made under this Act.

“Sell” includes barter or exchange, and also includes agreeing to sell or offering for sale or sending,
forwarding

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forwarding or delivering for or on sale; or causing, suffering or attempting any of such acts or things, and "sale" and "sold" shall have a corresponding meaning.

"This Act" includes the regulations.

"Trustee" includes the liquidator of a company, official receiver of a bankrupt estate, the Master in Lunacy, and a supervisor appointed under the Farmers' Relief Act, 1932-1935.

"Wheat" means wheat grown from a crop sown during the year one thousand nine hundred and thirty-six or during any subsequent year.

"Wheatgrower" means a person who owns wheat grown from a crop sown in the year one thousand nine hundred and thirty-six or in any subsequent year and who harvests such wheat or on whose account such wheat is harvested, and where wheat is grown from any such crop pursuant to any share-farming agreement, includes the parties to such agreement who own and who harvest or on whose account is harvested any of such wheat. The term "wheatgrower" also includes the legal personal representative or any trustee of any such person or party.

"Wheat processor" means any person who, by any process of manufacture, produces any wheat product.

"Wheat product" means any substance produced—

- (a) by gristing, crushing, grinding, milling, cutting, or otherwise processing wheat or, except as prescribed by any one or more of those processes applied to wheat combined with any other commodity; or
- (b) by the sifting or screening of, or any mechanical operation applied to, substances so produced; or
- (c) by the combination of any of the operations specified in the last two preceding paragraphs; and

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and includes—

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(i) any mixture of any such substances;
and

(ii) self-raising flour.

4. The Wheat Act, 1927, is amended—

Amendment
of Act
No. 6, 1927,
s. 2.

(a) by inserting in section two after the definition of the word “elevator” the following new definition:—

“Warrant” means a warrant issued by the New South Wales Wheat Board constituted under the Wheat and Wheat Products Act, 1936.

(b) (i) by omitting from subsection one of section eleven the word “warrant” and by inserting in lieu thereof the word “receipt”;

(ii) by omitting from subsection two of the same section the word “warrants” wherever occurring and by inserting in lieu thereof the word “receipts”;

(iii) by inserting after subsection two of the same section the following new subsection:—

(3) The receipt shall indicate on its face that it is not a document of title to any wheat.

(c) by inserting in paragraph (a) of section twelve after the word “warrant” the words “having thereon an acceptance by the Wheat Commissioner as prescribed and”;

(d) by omitting section thirteen;

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(e) (i) by omitting from paragraphs (c), (d), (e) and (f) of subsection one of section seventeen the word “warrants” wherever occurring and by inserting in lieu thereof the word “receipts”;

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(ii) by omitting from paragraph (f) of the same subsection the word “warrant” and by inserting in lieu thereof the word “receipt”;

(iii)

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(iii) by inserting at the end of the same subsection the following new paragraph:—

(j) the method of acceptance of warrants.

Appointment
and constitu-
tion of a
board.

5. (1) There shall be a board to be called "The New South Wales Wheat Board" which shall consist of five members appointed by the Governor.

(2) Of the members so appointed—

- (a) one shall be a person who has had experience in the wheat trade, another shall be a representative of the consumers and shall be a person who is not engaged in the milling industry or the shipping industry. Both of such persons shall be nominated by the Minister;
- (b) one shall be nominated by the Farmers and Settlers' Association of New South Wales;
- (c) one shall be nominated by the Agricultural Bureau of New South Wales; and
- (d) one shall be nominated by the Wheatgrowers' Union of New South Wales.

The Governor shall appoint one of the said members to be chairman.

The nominations pursuant to paragraphs (b), (c) and (d) of this subsection shall be made in the manner prescribed.

(3) If no nomination or no sufficient nomination of a person as representative of the said Association, Bureau or Union referred to in subsection two of this section is made within the time prescribed the Governor may appoint any person to be a member of the board as representative of the said Association, Bureau or Union, as the case may be.

Period of
office of
members.

(4) The members of the board shall, subject to this Act, hold office for a period of three years, and shall, if otherwise qualified, be eligible to be re-appointed from time to time.

(5)

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(5) The board shall be a body corporate under the name of "The New South Wales Wheat Board" with perpetual succession and a common seal, and may sue and be sued in its corporate name and shall, for the purposes and subject to the provisions of this Act, be capable of acquiring, holding, disposing of, or otherwise dealing with, real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do or suffer.

Incorporation of the Board.

(6) No act or proceeding of the board shall be invalidated by reason of any defect or irregularity in the constitution of the board or in the nomination or appointment of any member or by reason of there being any vacancy in the number of members at the time of such act or proceeding.

Defect, etc., in constitution of board, not to invalidate acts, etc.

(7) The Governor may remove any member from office for misbehaviour or incompetence or if without the permission of the board he fails to attend three consecutive meetings of the board.

Removal of member from office.

(8) A notification by the Governor published in the Gazette of the appointment of five members by him shall be conclusive evidence of the due constitution of the board.

6. (1) The office of any member shall become vacant if he—

Vacancies.

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) is removed by the Governor;
- (d) becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (e) is convicted of a felony or indictable misdemeanour; or
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898.

(2) If the office of a member becomes vacant during the term for which he is appointed, a person shall be appointed to fill the vacancy.

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A person so appointed shall, subject to this Act, hold office during the remainder of his predecessor's term of office.

Fees, etc., to members.

(3) The members of the board shall be paid such fees, allowances and expenses as may be prescribed.

Powers of board.

7. (1) The board may—

- (a) purchase and/or dispose of wheat or warrants in respect of wheat, including warrants issued under legislation in other States with objects similar to those of this Act and the wheat represented thereby;
- (b) enter into agreements, in the prescribed form, with wheatgrowers, in relation to wheat delivered by them to receivers in accordance with this Act;
- (c) enter into financial arrangements with any bank or financial institution including the borrowing of money on overdraft or otherwise and giving such securities for advances upon any property of the board or any property which the board may charge or pledge as the board thinks fit.
- (d) make advances (to persons entitled to receive the same) in respect of wheat represented by home consumption warrants issued by the board and sold or disposed of or to be sold or disposed of by or through the board;
- (e) provide for the cost of defraying the expenditure involved in the administration of this Act and in the exercise and discharge by the board of its powers, authorities, duties and functions.

(2) Subject to any regulations to be made under this Act—

- (a) the board shall (except as to wheat or warrants purchased by the board under a contract which otherwise provides) deal with and apply the proceeds of any wheat and warrants sold or disposed of by the board under this Act in accordance with the provisions of this subsection;
- (b).

- (b) the board shall out of such proceeds make payments to each wheatgrower concerned or to such other person as may be entitled thereto in respect of the wheat or warrant of such wheatgrower or person on the basis of the net proceeds of the sale of all the said wheat grown from a crop sown in the same year and of the same grade description or quality or of warrants representing such wheat and on the basis of the proportion of the wheat of such wheatgrower or other person and having regard to the other circumstances if any affecting the amount of the payment to be made to the wheatgrower or other person as aforesaid;
- (c) the board may deduct from the said proceeds the expenditure incurred in or about the sale or disposal of such wheat and warrants the costs charges and expenses of the administration of this Act and any sums necessary to repay any advances made to the board and interest thereon and the board may also deduct from such proceeds for any other prescribed purposes such other sums of money as may be prescribed or as may be determined in a prescribed manner;
- (d) for the purposes of ascertaining the amount of the payment to be made to such wheatgrower or other person the board's decision as to the grade description or quality of any wheat (whether prescribed or not) the method of determining any premiums to be allowed any dockages or deductions to be made and the amounts thereof respectively cost of freight and any other charges and the amounts to be deducted under paragraph (c) of this subsection shall be final and conclusive against all persons whomsoever.
- (3) The board shall have and may exercise and discharge all such powers, authorities, duties and functions as may be prescribed or as may be necessary or convenient to be exercised or discharged by it in order to carry out the objects and purposes of this Act.

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Delegation
of powers.

(4) (a) Subject to the regulations the board may from time to time by resolution delegate to any person, either generally or in any particular case or class of cases, such of its powers, authorities, duties or functions (other than this power of delegation) as are specified in the resolution.

(b) A person to whom any powers, authorities, duties or functions of the board have been so delegated shall, when acting within the scope of such delegation, be deemed to be the board.

(c) The board may by resolution revoke any such delegation.

(5) All powers, authorities, duties and functions vested in the board may be exercised by a majority of the votes of the persons present at any meeting duly held at which a quorum shall be present and all questions shall be decided by a majority of the votes. Upon every question the chairman shall have a vote and if there is an equal division he shall have a second or casting vote.

(6) A purchaser or encumbrancer from or through the board of any wheat or warrants acting bona fide and without notice shall not either before or on completion of his transaction be concerned to see or inquire whether a case has arisen to authorise the sale or encumbrance or whether the power or authority of the board is otherwise properly and regularly exercised and the title of such purchaser or encumbrancer shall not be impeachable on the ground that no case has arisen to authorise the sale or encumbrance or that the power was otherwise improperly or irregularly exercised.

(7) The receipt of the board shall be a sufficient discharge for any money arising under any sale or encumbrance by or through the board of any wheat or warrants and a person paying the same to the board shall not be concerned to see to the application of the money so paid.

Appoint-
ment of
officers, etc.

8. For the purposes of this Act, the board may appoint a secretary and may appoint or employ such other officers, and such servants, agents and other persons as are necessary.

9. (1) The Minister may, after consultation with the board, determine in respect of wheat the maximum proportion of such wheat which may be made available for human consumption in the course of intra-state trade or commerce in New South Wales.

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Quota.

The maximum proportion so determined is in this Act referred to as the "quota."

The Minister may, after consultation with the board, cancel the quota and substitute therefor another quota in respect of such wheat.

(2) A notice of the quota and of any substituted quota shall be published in the Gazette, and a copy of the Gazette shall be evidence of the matters therein contained or referred to.

10. (1) Any person may apply in writing to the board for the issue to him of a license to operate as a receiver of wheat.

Licenses to receivers.

(2) The board may, upon the receipt of an application made in the manner and in or to the effect of the form prescribed, and upon payment of such fee (if any) as may be prescribed, issue to the applicant a license in or to the effect of the prescribed form.

(3) Any license issued under this section shall be subject to such security and conditions as are prescribed or are imposed by the board.

(4) A license issued under this section shall take effect from the date of its issue and shall, unless cancelled as hereinafter provided, remain in force until the thirtieth day of September next following that date.

(5) The board may cancel any license issued under this section if the holder thereof is convicted of an offence against this Act or if in the opinion of the board the holder ought no longer to be allowed to continue to hold a license. The cancellation of the license shall not affect the liability of the receiver in respect of wheat theretofore received by him.

(6) Subject to this Act any person who—

(a) not being the holder of a license issued under this section, receives wheat from a wheatgrower;
or

(b)

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(b) being the holder of a license issued under this section fails to observe any of the conditions of his license,

shall be guilty of an offence against this Act.

Deliveries
of intra-
state wheat
by wheat-
growers.

11. Any wheatgrower who, except in the course of trade or commerce between the States or except as permitted by this Act, delivers any wheat except to a receiver, shall be guilty of an offence against this Act.

Delivery to
receiver.

12. (1) A wheatgrower delivering wheat to a receiver pursuant to the requirements of section eleven of this Act shall at the time of such delivery sign and deliver to the receiver an authority stating particulars of the wheat delivered and containing such authorities in favour of the board and the receiver in respect of such wheat and such other matters as may be prescribed.

The authority shall be to the effect of the prescribed form.

(2) A receiver shall not receive any wheat required to be delivered to a receiver by section eleven unless such authority has been signed and delivered to him.

Offence.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

Exemptions
—seed
wheat,
wheat
for feed.

13. (1) The board may, from time to time, by notification published in the Gazette, declare that, in such circumstances and subject to such conditions (if any) as are specified in the notification, this Act, or any provision thereof, shall not apply to or in respect of the delivery or receipt of wheat for seed or for feed for stock or poultry.

(2) The board may, by notification published in the Gazette, revoke or vary any such notification.

(3) A notification under this section shall take effect from the date of publication thereof in the Gazette or from a later date to be specified in the notification.

(4) The board's decision as to whether a notification under this section extends to any particular delivery or receipt of wheat shall be evidence thereof.

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—
Receivers
to give
receipts to
wheat-
growers.

14. (1) A receiver shall give to each wheatgrower who delivers wheat to him a receipt in or to the effect of the prescribed form for such wheat and shall within ten days after giving such receipt furnish to the board a copy of the receipt and the authority received by him from the wheatgrower.

(2) Nothing in this section shall entitle a wheatgrower to delivery of any wheat from the board and any obligation of a receiver to deliver any wheat to any person may be satisfied by the delivery of the same quantity of wheat of the same grade or if no grades are in operation of the same description or quality.

(3) (a) Where any such wheat delivered to a receiver is stored by him in an elevator within the meaning of the Wheat Act, 1927, the grade or description or quality of the wheat shall be conclusively determined by the receipt issued in pursuance of section eleven of that Act.

(b) Where any such wheat delivered to a receiver is not stored by him in an elevator as aforesaid regulations may be made for the determination of the grade or description or quality of such wheat, including the person by whom such determination may be made and the conclusiveness of such determination.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

15. (1) Subject to the regulations no wheatgrower shall in the course of intrastate trade or commerce sell in excess of the quota for the time being in force any wheat grown from a crop to which such quota applies.

Selling by
wheat-
growers—
warrants,
etc.

(2) The board shall, from time to time, prepare, in favour of the wheatgrower, home consumption warrants in respect of a proportion of the wheat delivered by such wheatgrower to the receiver accompanied by the authority required by section twelve of this Act to be ascertained by applying to all the wheat of such wheatgrower the quota for the time being in force applicable to the crop to which such wheat belongs, and shall issue and forward to the wheatgrower export warrants in or to the effect of the prescribed form for the balance of the wheat so delivered.

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No warrant shall be issued by the board in respect of delivery of wheat from an elevator within the meaning of the Wheat Act, 1927, unless and until accepted by the Wheat Commissioner as provided by that Act.

(3) The board shall forward to each wheat-grower a statement showing particulars of every home consumption warrant prepared in respect of wheat so delivered by him to the receiver.

(4) Every wheatgrower who in the course of the intrastate trade or commerce of the State save as exempted by or under this Act sells or disposes of any home consumption warrant or any part thereof or any part of the wheat represented by any such warrant otherwise than to or through the board and every person (other than the board or a person purchasing or acquiring through the board) who in the course of the intrastate trade or commerce of the State save as aforesaid buys or acquires from the wheatgrower any home consumption warrant or any part thereof or any part of the wheat represented by any such warrant shall be guilty of an offence against this Act.

(5) Subject to subsection three of section one of this Act the home consumption warrant shall be retained by the board until it or the wheat represented thereby is purchased or encumbered from by or through the board by a wheat processor or other prescribed person.

(6) Export warrants shall after endorsement by the person to whom they were issued be transferable by delivery.

(7) Subject to the regulations export warrants and the wheat represented thereby shall not be sold or dealt with otherwise than for the purposes of export including interstate trade and commerce.

cf. Act
No. 6, 1927,
s. 12.

(8) Wheat shall not be delivered by a receiver unless there shall have been delivered to him—

- (a) a warrant representing the same quantity of wheat of the same grade, or, if no grades are in operation, of the same description or quality;
- (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat; and

(c)

(c) a declaration in the prescribed form to show that the disposal or intended disposal of the wheat is not in contravention of this Act; and unless all fees, freight and other charges due in connection therewith have been paid.

Nothing in this subsection shall affect the operation of section twelve of the Wheat Act, 1927.

(9) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

16. (1) Home consumption warrants and export warrants required for the purposes of this Act shall be in or to the effect of the form prescribed therefor respectively, shall be issued in separate series, and shall be numbered consecutively in each series. Warrants.

(2) Two or more warrants bearing the same number shall not be issued in either series during the period in which the wheat harvest of any season is being delivered.

(3) Every warrant shall specify the quantity of wheat to which it relates and the grade of that wheat and, if no grades are in operation, the description or quality.

17. (1) Where a substituted quota is determined the board shall subject to any accrued rights of any persons who have bona fide purchased or acquired title to wheat or warrants in accordance with this Act take such action as may be necessary to ensure that the substituted quota shall have effect in respect of all wheat to which such quota relates. Powers of board—substituted quota.

(2) Without prejudice to the generality of subsection one of this section the action taken by the board may include the purchase of warrants, the cancellation of warrants and the issue of fresh warrants of either series in lieu of cancelled warrants.

18. (1) The board may, by notice in writing, require any receiver to furnish to the board information in relation to such matters as are specified in the notice. Information to be furnished by receivers.

(2) A receiver to whom any such notice has been given shall, within the time specified in the notice, comply with the requirements thereof.

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(3) Any receiver who, without reasonable excuse, (proof whereof shall lie upon him), contravenes the provisions of this section, shall be guilty of an offence against this Act.

Sale of
wheat
products.

19. (1) Unless exempted by the regulations a wheat processor shall not, in the course of the intrastate trade or commerce of the State, sell wheat products manufactured by him in excess of the quantity manufactured by him from the quantity of wheat in respect of which he has purchased home consumption warrants.

Without affecting the generality of subsection three of section one the provisions of this subsection shall not apply to the sale by a wheat processor of wheat products manufactured by him out of wheat purchased by him in the course of trade and commerce between the States.

(2) Any wheat processor who contravenes the provisions of this section shall be guilty of an offence against this Act.

Returns by
processors.

20. (1) Every wheat processor shall keep such records as are prescribed, and shall furnish to the board within ten days after the close of each month a return in or to the effect of the prescribed form in relation to—

- (a) wheat products manufactured by him during that month;
- (b) wheat used by him during that month in the manufacture of wheat products; and
- (c) warrants bought by him during that month and the use made by him during that month of such warrants and other warrants.

(2) Any wheat processor who contravenes the provisions of this section shall be guilty of an offence against this Act.

Board may
enter into
certain
contracts.
cf. Act No.
17, 1933,
s. 8.

21. The board shall have power to enter into contracts or arrangements with boards appointed under legislation in other States with objects similar to those of this Act for the purpose of carrying such objects into effect and for purposes incidental thereto, and the board shall have power to enter into any such contracts or arrangements with such boards for or on behalf of any wheatgrower.

Records and
returns by
receivers.

22. (1) Every receiver shall keep such records as are prescribed and shall furnish to the board monthly returns relating to wheat delivered to and by him.

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(2) Any return required by this section to be furnished shall be in such form and contain such particulars as are prescribed and the return shall be furnished within ten days after the close of each month.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

23. The board may exercise any such powers as are conferred on it by or under any Act of the Commonwealth relating to wheat or wheat products.

The board may exercise certain powers.
cf. Act No. 17, 1933, s. 10.

24. No action, claim or demand shall lie or be made or allowed by or in favour of any person whomsoever against his Majesty or the Minister or the board or any member thereof or any officer or person acting in the execution of this Act for or in respect of any damage loss or injury sustained or alleged to be sustained by reason of the passing of this Act, or of its operation or anything done or purporting to be done under this Act.

Indemnity.
cf. *Ibid.* s. 11.

25. (1) For the purpose of ascertaining whether any offence against this Act or the regulations has been committed any officer of the board or any person authorised by the board in that behalf either generally or in any particular case may at any reasonable time enter any premises used wholly or partly for carrying on business in connection with wheat or wheat products and inspect any wheat and wheat products, any books, accounts, registers, records, documents or writings found in or upon such premises relating to any transaction in connection with wheat or wheat products and may take copies thereof or of any entries therein.

Inspection of books, etc.
cf. *Ibid.* s. 12.

(2) Any person who knowingly obstructs, hinders, prevents or interferes with any officer or person so authorised or who when requested so to do refuses or neglects to produce such books, accounts, registers, records, documents or writings shall be guilty of an offence against this Act.

26. (1) Any person who is guilty of an offence against this Act shall be liable to a penalty not exceeding five hundred pounds.

Penalties.

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(2) Penalties imposed by this Act or by the regulations may be recovered in a summary manner before a stipendiary or police magistrate in a court of petty sessions.

cf. Act No.
34, 1927,
as amended,
s. 31 (3).

(3) The institution of criminal proceedings against, or the conviction of a person for any offence against this Act shall not affect any remedy which any other person aggrieved may be entitled to in any civil proceeding.

cf. *Ibid.*
s. 32 (1).

(4) If any person committing an offence against this Act is a company, the individual person guilty of the offence, and also the managing director or other manager in New South Wales of the company, shall each of them be liable to the like punishment.

cf. *Ibid.*
s. 32 (2).

(5) If two or more persons are responsible for the same offence, each of those persons shall be guilty of the offence, and the liability of each of them shall be independent of the liability of the others.

Information.
cf. Act
No. 17, 1933,
s. 14.

27. (1) Any information, complaint, or other legal proceeding under this Act or the regulations may be laid, made, and taken by any person authorised by the Minister or in the name of the board by the secretary or by any other officer duly authorised in that behalf either generally or in any particular case.

(2) In any proceedings the production of a notification in the Gazette that any person has been so authorised shall be conclusive evidence of the authority and evidence that his authority to act remains in force.

(3) The secretary or other officer shall out of the funds of the board be reimbursed all damages, costs, charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection one of this section.

Burden
of proof.

28. In any prosecution for an offence against this Act the averment of the prosecutor that any wheat or wheat products were on the occasion therein stated the subject of intrastate trade or commerce shall be deemed to be proved in the absence of proof to the contrary.

Contracts
for sale
of wheat.
cf. Act No.
34, 1927, as
amended,
s. 16.

29. (1) Subject to this Act every contract which is made in or outside of New South Wales, before the commencement of this Act, so far as it relates to the sale of any wheat for delivery in or out of New South Wales,

Wales, shall when specified by the board in a notification published in the Gazette, be and is hereby declared to be and to have been void and of no effect as from the date upon which it was made, so far as such contract has not been completed by delivery at the date of such notification: Provided that for the purposes of this section any such contract shall be deemed to be severable.

(2) Subject as aforesaid any transaction or contract with respect to any wheat which is the subject-matter of any contract or part of a contract declared by this section to be void shall also be void and of no effect, and any money paid in respect of any contract or part of a contract hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

30. Notwithstanding anything in this Act if the board have received notice of any mortgage, charge, lien or encumbrance over or contract relating to any wheat they may in their discretion refuse or withhold the issue of any warrant until such time as the parties claiming to be interested advise the board as to the manner in which and the persons in whose favour the warrant is to be issued.

Mortgage,
charge,
lien or
encum-
brance.
cf. Act No.
34, 1927,
s. 15.

Where the wheat has been grown under any share-farming or partnership agreement the board may in their discretion prepare and/or issue separate warrants to the parties to such agreement in accordance with their interests in the wheat.

31. Notwithstanding anything in the Government Railways Act, 1912, as amended by subsequent Acts, or the law relating to common carriers, or any agreement to the contrary (whether made before or after the commencement of this Act), but subject to this Act, the Commissioner for Railways and any common carrier and any owner, charterer, master, or agent of any ship may, on the request of the board (which request the board is hereby authorised to make) without incurring liability, refuse to carry any wheat (not the subject of an interstate contract) from any place in New South Wales to any other place in New South Wales, or to deliver any wheat in such cases as may be prescribed.

Power of
Commis-
sioner for
Railways,
etc., to
refuse to
carry.
cf. *Ibid.*
s. 17.

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Remedy
against
board or
receiver
confined to
claim for
an account.

See Act No.
34, 1927,
s. 18.

32. (1) Subject to this Act, no proceedings at law or in equity shall be brought against the board or any receiver by any person (other than the wheatgrower who delivered the wheat to the receiver) claiming to be entitled to any bill of sale, mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, as amended, or the Co-operation Act, 1923-1935), or other encumbrance whatsoever of or upon or over any wheat or claiming to be the true owner of the wheat.

Nothing in this subsection shall apply to any proceedings against a receiver for delivery of any wheat in pursuance of an unsatisfied warrant issued by the board.

(2) Any person who but for this section might have brought any such action may adopt the delivery of the wheat to the receiver as a delivery thereof by him to the receiver, and may claim accordingly in respect thereof subject to the provisions of this Act.

Notice of
lien, etc.,
to be given
to board.

See *Ibid.*
s. 18 (3).

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law or equity to the contrary, any such person shall not be entitled to claim as aforesaid in respect of the wheat, unless he has given prior notice in writing to the board and to the receiver in the form and containing the particulars prescribed of such bill of sale, mortgage, charge, lien, or other encumbrance, or claim of ownership, and then only for such part of the wheat or warrants or money as has not been given or paid to other persons at the time of the receipt by the board and the receiver of such notice.

Duty to
give notice
of encum-
brances,
etc., on de-
livery there-
of and
obligations
of person
making
delivery
to give
notice.
See *Ibid.*
s. 19.

33. (1) Every person delivering to a receiver any wheat which is subject to any bill of sale, mortgage, charge, lien, or encumbrance referred to in section thirty-two of this Act, or in respect of which or of the crop from which the same was harvested there exists any contract in derogation of his title to sell the wheat as the absolute owner thereof (and whether such bill of sale, mortgage, charge, lien, or encumbrance or contract was made before or after this Act), shall, when delivering the wheat to the receiver, give to the receiver a notice in writing in the prescribed form of every such bill of sale, mortgage, charge, lien or encumbrance or contract and in addition
the

the notice to be given by him when delivering the wheat to the receiver shall contain particulars as to all other persons interested in any way in such wheat and the nature of their respective interests therein.

(2) A notice given in respect of a delivery made to any person receiving wheat on behalf of a receiver at one railway station or place of delivery shall not be deemed to be a compliance with this section in respect of a delivery made to any other person receiving any wheat on behalf of that receiver at the same or any other railway station or place of delivery.

(3) Every receiver receiving any such notice shall immediately forward a copy thereof to the board.

(4) Any person wilfully guilty of a failure to comply with any of the provisions of this section shall be guilty of an offence against this Act.

34. Where a board or a receiver in good faith and without negligence has issued any warrant or delivered any wheat or made any payment—

- (a) to a wheatgrower or other person delivering or causing to be delivered any wheat to a receiver; or
- (b) to any person entitled or claiming to be entitled through such wheatgrower or other person delivering or causing to be delivered such wheat; or;
- (c) to any person on the order of such wheatgrower or lastmentioned person or of any person entitled or claiming to be entitled as mentioned in paragraph (b) of this section;

the board or receiver shall not be answerable to any other person in respect of such payment or the delivery of such wheat or the issue of such warrant or any part thereof or in any action, suit, claim or demand whatsoever for damages or otherwise.

35. (1) If prior to receiving notice of claim to any payment or to any warrant or to any wheat represented thereby the board or any receiver has in good faith and without negligence adjusted and settled with the person named in such warrant or with any person who has made a claim in accordance with the provisions of subsection two of section thirty-two of this Act for the money payable on the warrant or the wheat represented thereby

Non-liability of board or receiver for payments in good faith, etc. See Act No. 34, 1927, s. 20.

Protection of board or receiver. See *Ibid.* s. 21.

No. 3, 1936.

thereby the board or receiver shall not incur any liability to the true owner of such warrant or wheat or money or any part thereof or to any party claiming through, under, or in trust for him: Provided that the board or a receiver shall not be entitled to the protection of this subsection in respect of any such warrant or wheat or moneys remaining in their or his hands as the case may be at the time of receipt by them or him of notice of such claim.

(2) This section shall not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to any warrant or the wheat represented thereby or any moneys.

(3) Notwithstanding anything in this Act the board shall not be liable to any claim, demand or proceedings by any person where the act or omission complained of was done or committed by the board in good faith and without negligence and the board shall in no case be liable for any act or omission of any receiver.

Accounts of receipts and disbursements to be kept.
See Act No. 34, 1927, s. 23.

36. (1) The board shall cause proper books of account to be kept and shall cause to be entered therein true and regular accounts of all sums of money received and paid for or on account of this Act or pursuant thereto, and of the several purposes for which sums of money have been received and paid.

(2) The board shall publish statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the board at such places and at such times as may be prescribed.

(3) The accounts of the board shall be audited by the Auditor-General, who shall have in respect thereof all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts.

License fees, charges and penalties.

37. All license fees and charges made by the board and penalties payable or recovered under this Act shall be paid to the board and shall be held and applied by it for the purposes of this Act.

Provided that any such penalties recovered against the board shall be paid into the Consolidated Revenue Fund.

38. (1) 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 and without limiting the generality of the foregoing power, the Governor may make regulations for or with respect to—

No. 3, 1936.
Regulations.
cf. Act
No. 17,
1933, s. 15.

- (a) the nomination of members of the board, the provision of deputies for members of the board, and their powers, functions and privileges, the proceedings and procedure of the board, and the quorum at meetings of the board;
- (b) the determination of a quota;
- (c) the licensing of receivers and the duties of receivers;
- (d) the co-operation of the board with boards appointed under legislation in other States with objects similar to those of this Act;
- (e) the appointment by the board of members of the board and other persons to represent it in consultation with boards appointed under legislation in other States with objects similar to those of this Act or with the Minister for Commerce or other Minister of State for the Commonwealth;
- (f) the furnishing of information or returns relating to wheat or wheat products;
- (g) the forms which may be used under this Act;
- (h) the conditions under which one warrant may be issued in place of two or more warrants, and under which two or more warrants may be issued in place of one;
- (i) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced destroyed or lost and the security to be taken before any such issue;
- (j) to ensure the observation of subsection seven of section fifteen;

(k)

- (k) to require evidence by declaration or otherwise in any case or class of cases that any provision of this Act is not being or intended to be violated;
 - (l) the delivery of wheat not of merchantable quality;
 - (m) the service of notices by the board;
 - (n) fees and charges payable to the board for the preparation of warrants and for any other matters and things done by the board under this Act;
 - (o) the furnishing of information, evidence and reports by the board to the Minister.
- (2) The regulations may prescribe a penalty not exceeding fifty pounds for any breach thereof.
- (3) The regulations shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in such regulations; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after any regulation has been laid before such House, disallowing such regulation or part thereof, such regulation or part shall thereupon cease to have effect.

DISTRICT