

WHEAT MARKETING ACT, 1979, No. 202

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 202, 1979.

An Act relating to the marketing of wheat; to repeal the Wheat Industry Stabilization Act, 1974; and for other purposes.
[Assented to 21st December, 1979.]

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

PART I.**PRELIMINARY.**

Short title. **1.** This Act may be cited as the "Wheat Marketing Act, 1979".

Commencement. **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence or be deemed to have commenced, as the case may require, on the date of commencement of the Commonwealth Act.

**Arrange-
ment.**

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—MARKETING OF WHEAT—ss. 7–20.

PART III.—SALE OF WHEAT BY THE BOARD FOR USE OR CONSUMPTION IN AUSTRALIA—ss. 21–23.

PART IV.—MISCELLANEOUS—ss. 24–31.

SCHEDULE 1.—PRICE PER TONNE OF WHEAT.

Repeal of
Act No. 108,
1974, Act
No. 59,
1976, and
Act No. 152,
1978, and
savings.

4. (1) The Wheat Industry Stabilization Act, 1974, the Wheat Industry Stabilization (Amendment) Act, 1976, and the Wheat Industry Stabilization (Amendment) Act, 1978, are repealed.

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(2) Notwithstanding the repeals effected by subsection (1) but subject to subsection (3), any provisions of an Act that would, but for those repeals, have continued to apply to, or in relation to, wheat delivered to the Board before 1st October, 1979, continue so to apply.

(3) The amendments made by section 30 of the Wheat Industry Stabilization Act, 1974, continue to have force and effect as if that section had not been repealed by subsection (1).

(4) A reference in any of the provisions referred to in subsection (2) to the Australian Wheat Board 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 the Commonwealth Act.

5. (1) In this Act, unless the contrary intention appears—
“Australian standard white wheat” means wheat other than—Interpre-
tation.

- (a) wheat that, having regard to its general characteristics, is classified for the purposes of this definition by or on behalf of the Board as being included in a particular category of wheat; or
- (b) wheat that is classified for the purposes of this definition by or on behalf of the Board as having a quality defect;

“authorized person” means a person appointed under section 24 for the purposes of the provision in which the expression occurs;

“authorized receiver” means a body corporate authorized to receive wheat on behalf of the Board under section 8 or under a corresponding provision of the Commonwealth Act or of a State Act;

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

“Chairman” means the Chairman of the Board;

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“Commonwealth Act” means the Wheat Marketing Act 1979 of the Parliament of the Commonwealth as that Act is amended from time to time;

“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;

“Grain Elevators Board” means the Grain Elevators Board constituted under the Grain Elevators Act, 1954;

“guaranteed minimum price” has the same meaning as in the Commonwealth Act;

“net pool return” and “net pool return rate” have the same respective meanings as in the Commonwealth Act;

“quota season” means a season declared by proclamation under section 5 of the Commonwealth Act to be a quota season;

“season” means the period of 12 months that commenced on 1st October, 1979, and each of the next 6 succeeding periods of 12 months;

“State Act” means an Act of the Parliament of another State passed after 1st October, 1979, relating to the marketing of wheat;

“Territory” means a Territory of the Commonwealth;

“wheat” does not include wheat harvested after 30th September, 1986;

“Wheat Levy Acts” means the Wheat Levy Act (No. 1) 1979 of the Parliament of the Commonwealth and the Wheat Levy Act (No. 2) of the Parliament of the Commonwealth, being those Acts as amended from time to time;

“wheat products” has the same meaning as in the Commonwealth Act;

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“Wheat Tax Acts” means the Wheat Tax Act 1957 of the Parliament of the Commonwealth and the Wheat Tax Act 1979 of the Parliament of the Commonwealth, being those Acts as amended from time to time.

(2) A reference in this Act to wheat of a season shall be read as a reference to—

- (a) wheat harvested during that season; or
- (b) wheat harvested before 1st October, 1979, and acquired by the Board under this Act.

(3) A reference in this Act to wheat shall be read as including a reference to the corn sacks (if any) in which the wheat is at the relevant time.

(4) A reference in this Act to wheat acquired by the Board under an Act (whether this Act, the Commonwealth Act or a State Act) shall be read as a reference to wheat that, on or after 1st October, 1979, has become the property of the Board by force of that Act or an Act repealed by that Act.

6. (1) This Act 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 the application of any provision of this Act to any person or circumstance, is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(2) If, by reason of the Commonwealth of Australia Constitution Act, 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 to which it purports to apply, being wheat in relation to which it can validly apply.

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PART II.

MARKETING OF WHEAT.

Powers of Board.

7. (1) The Board may—

- (a) purchase wheat and wheat products;
- (b) accept the delivery of wheat to it;
- (c) sell or dispose of, or make arrangements for the sale or disposal of, wheat and wheat products;
- (d) require, in circumstances where the Board considers it appropriate, a purchaser of wheat from the Board to give to the Board a guarantee or other security for the payment of the purchase price of the wheat;
- (e) grist or arrange for the gristing of wheat, and sell or otherwise dispose of the products of the gristing;
- (f) 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
- (g) do all things that the Board is required or permitted by this Act to do or that are incidental 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) For the purposes of this Act, the Board is not bound to preserve the identity of wheat of a season and may keep its accounts and records in respect of sales of wheat and wheat products, and the export of wheat and wheat products, in such manner as will, in its judgment, attribute sales and exports to wheat of different seasons in an equitable manner, and sales and exports so attributed to wheat of a season shall be deemed to relate to wheat of that season.

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(3) The exercise by the Board of the power conferred upon it by subsection (1) (f) is subject to the provisions of any Act by or under which conditions may be imposed on the receipt of wheat for storage by the Grain Elevators Board.

(4) The Board may have regard to any advice furnished to it by a consultative group established under section 57 of the Commonwealth Act relating to the performance of the functions of the Board under this Act.

8. (1) The Grain Elevators Board is authorized to receive wheat on behalf of the Board. Authorized receivers.

(2) As from a day to be appointed by the Governor and notified by proclamation published in the Gazette, all wheat to be delivered to the Board in the State shall be delivered—

- (a) to the Grain Elevators Board; or
- (b) to any other authorized receiver, and at a place, approved by the Grain Elevators Board.

(3) An authorized receiver may carry on operations as such a receiver by means of, and on the premises of, an agent of the authorized receiver, being such an agent approved by the Board.

(4) The Grain Elevators Board may enter into an agreement with the Board under section 55 of the Commonwealth Act.

9. 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. Directions by Minister.

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

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(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, wheat that is in the possession of that person; or
- (d) to deliver to the Board, in accordance with any directions in the notice, 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 becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts.

(4) A notice under subsection (2) shall not require the delivery to the Board of—

- (a) wheat retained by the grower for use on the farm where it is grown;
- (b) wheat retained for use on a farm to which it has been moved under a permit under section 13; or
- (c) wheat that has been sold by the Board.

(5) A person shall not—

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

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

Penalty for a breach of this subsection: An amount calculated in respect of the quantity of the wheat in respect of which the offence is committed at the rate of \$200 per tonne or part thereof or imprisonment for 6 months, or both.

11. (1) Delivery of wheat to the Board may be made by delivering the wheat to an authorized receiver and not otherwise, and the delivery is not effective unless and until the delivery is accepted by the authorized receiver. Delivery to authorized receiver.

(2) An authorized receiver shall, in relation to the acceptance, or refusal of acceptance, on behalf of the Board, of the delivery of wheat in a quota season, comply with any directions of the Board that have regard to quotas that are applicable under laws of all or any of the States providing for the fixing of wheat quotas, including a law of a State providing for the fixing of quotas in respect of wheat grown in a Territory.

(3) A person who delivers wheat to an authorized receiver shall, at the time of the delivery of the wheat, furnish to the authorized receiver—

- (a) a declaration in writing signed by him stating, to the best of his knowledge and belief, the variety of the wheat so delivered; and
- (b) a statement in writing signed by him of the names and addresses of all persons known by him to have, or to claim, an interest in the wheat, or in the payment to be made for the wheat, and of all particulars known to him of those interests.

(4) Nothing in section 10 or in this section affects the operation of a scheme of apportionment of storage space under section 12A of the Grain Elevators Act, 1954.

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Act not to apply to certain wheat.

12. (1) A person who has in his possession—

- (a) seed wheat; or
- (b) inferior wheat that would not be acceptable if it were delivered to the Board,

may, by notice served by post on the Board, notify the Board accordingly.

(2) Where, on receipt by the Board of a notice by a person under subsection (1), an authorized person is satisfied that the wheat to which the notification relates is wheat of a kind referred to in that subsection, the authorized person may, on behalf of the Board, issue to the firstmentioned person a declaration that this Act does not apply to that wheat.

(3) A declaration under subsection (2) shall be in writing and shall specify—

- (a) the name and address of the person to whom the declaration is issued;
- (b) the quantity, and the grade, of the wheat to which the declaration applies;
- (c) the address of the place where the wheat is when the declaration is issued;
- (d) the date of the issue of the declaration; and
- (e) such other particulars as the Board specifies from time to time,

and shall have effect according to its tenor.

Permits for movement of wheat.

13. (1) A person who has wheat in his possession on a farm may, by notice served by post on the Board, notify the Board that he wishes to deliver the wheat to a miller for gristing with the object of having the produce of the gristing returned to the farm for use on the farm.

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(2) On receipt by the Board of a notice by a person under subsection (1), an authorized person may, on behalf of the Board, issue to the person a permit for the movement of the wheat from the farm to the mill and the movement of the produce of the gristing from the mill to the farm.

(3) A person who has wheat in his possession on the farm on which the wheat was grown may, by notice served by post on the Board, notify the Board that he wishes to move the wheat from that farm to an associated farm.

(4) Where, on receipt by the Board of a notice by a person under subsection (3), an authorized person is satisfied that—

- (a) the farms to which the notification relates are associated farms; and
- (b) the proposed movement of the wheat to which the notice relates would not detrimentally affect the orderly marketing of wheat by the Board in accordance with this Act,

the authorized person may, on behalf of the Board, issue to the firstmentioned person a permit for the movement of the wheat from one farm to the other.

(5) A permit under this section shall be in writing and shall specify—

- (a) the name and address of the person to whom the permit is issued;
- (b) the quantity of the wheat to which the permit applies;
- (c) the date of the issue of the permit;
- (d) in the case of a permit issued under subsection (2)—
 - (i) the address of the farm where the wheat is at the time of the issue of the permit; and
 - (ii) the address of the miller who is to grist the wheat;

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- (e) in the case of a permit issued under subsection (4)—
 - (i) the address of the farm where the wheat is at the time of the issue of the permit; and
 - (ii) the address of the farm to which the wheat is to be moved; and
- (f) such other particulars as the Board specifies from time to time.

(6) For the purposes of this section, two farms shall be deemed to be associated farms if—

- (a) they are owned, operated or controlled by the same person or the same partnership;
- (b) each of them is owned, operated or controlled by a partnership and the two partnerships have at least one common partner;
- (c) one of them is owned, operated or controlled by a person and the other is owned, operated or controlled by a partnership of which that person is a member; or
- (d) they are, in some other manner, so associated with the same person that the Board is of the opinion that they should be treated as associated farms for the purposes of this section.

Notification
of offer to
purchase
wheat.

14. (1) Where a person (in this section referred to as “the offeror”) offers to purchase for use or consumption in Australia wheat that is in the possession of another person (in this section referred to as “the grower”), the grower may, by notice served by post on the Board, notify the Board accordingly.

(2) A notice under subsection (1) shall be in accordance with a form approved by the Board and shall specify—

- (a) the name and address of the grower;
- (b) the name and address of the offeror;

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- (c) the quantity, the grade and the variety of the wheat to which the offer made by the offeror relates;
- (d) the terms and conditions (including the price) of the offer made by the offeror; and
- (e) such other information as is required by the notice.

(3) Where, on the receipt by the Board of a notice under subsection (1), an authorized person is satisfied—

- (a) that the terms and conditions of the offer made by the offeror are satisfactory and, in particular, that the price set out in the offer is not less than the price that would be the appropriate price for the wheat in accordance with section 21 if the wheat were to be sold by a contract of sale to which that section applied; and
- (b) where a condition of the offer provides for the delivery of the wheat by the grower—that the price includes any charge to be paid by the offeror for that delivery,

the authorized person may authorize the grower, in writing, to accept the offer on behalf of the Board.

(4) On the receipt by the grower of an authority under subsection (3), the grower shall set aside wheat for sale in accordance with that authority and, thereupon, the wheat so set aside becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts.

(5) A contract for the sale of wheat entered into by the grower, on behalf of the Board, under an authorization given under subsection (3) shall provide that the amount of the price for the wheat shall be paid directly to the Board.

(6) Where the price received by the Board under a contract of sale of wheat entered into under this section exceeds the price that would be the appropriate price for the wheat in

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accordance with section 21 if the wheat had been sold by a contract of sale to which that section applied, the Board shall pay to the grower an amount equal to that excess.

(7) A contract for the sale of wheat under this section shall not be entered into in a year other than a year in relation to which section 21 operates.

**Unauthor-
ized dealings
with wheat.**

15. (1) Except as provided by section 10 or in accordance with a permit under section 13 or an authority under section 14 or with the consent in writing of the Board—

- (a) a person shall not sell or deliver to a person or transfer to a person the possession, or grist or otherwise process, or mix with any other grain or substance, any wheat, other than wheat that has been sold by the Board;
- (b) a person shall not move wheat, or cause or permit wheat to be moved, from the farm where the wheat was grown or from the farm or other place to which the wheat has been moved in accordance with a permit under section 13;
- (c) where wheat has been sold by the Board under a contract of sale that specifies a purpose for which the wheat is to be used—the purchaser under the contract of sale shall not use the wheat for any other purpose; or
- (d) where wheat products have been produced at a place from wheat that has been grown at that place or has been moved to that place in accordance with a permit under section 13—a person shall not move those wheat products from that place.

Penalty: An amount calculated, in respect of the quantity of the wheat, or of the wheat equivalent of the wheat products, in respect of which the offence is committed, at the rate of \$200 per tonne or part thereof or imprisonment for 6 months, or both.

(2) Subsection (1) (a) does not prohibit the use of wheat on a farm on which the wheat was grown or at a place to which the wheat has been moved in accordance with a permit under section 13.

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16. (1) Where wheat of a season is acquired by the Board under this Act, the Board shall make an advance payment for that wheat of an amount determined in accordance with subsection (2).

Advance payment for wheat of a season other than the last two seasons.

(2) An advance payment in respect of wheat referred to in subsection (1) is an amount calculated at the guaranteed minimum price for wheat of the season concerned increased or decreased, as the case may be, by such allowances as the Board considers proper for—

- (a) the quality of the wheat;
- (b) where the wheat is wheat of a prescribed class—the characteristics of the variety or varieties of wheat included in that class and—
 - (i) where the wheat was delivered to the Board under section 10—the place at which the wheat was so delivered; or
 - (ii) in any other case—the place at which, if the wheat had been delivered to the Board under section 10, it would, in the opinion of the Board, have been so delivered;
- (c) where the wheat was delivered to the Board under section 10—
 - (i) charges by the Board in respect of costs of the transport of the wheat to a terminal port from the place at which the wheat was so delivered;
 - (ii) charges by the Board in respect of so much of the cost to the Board of remuneration payable under the Commonwealth Act to the authorized receiver to whom the wheat was so delivered as is applicable to the wheat; and
 - (iii) the corn sacks (if any) in which the wheat was so delivered and any additional costs incurred by the Board in the handling and storage of the wheat;

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(d) where the wheat was not delivered to the Board under section 10—

- (i) charges that the Board would have made if the wheat had been delivered to the Board under section 10 in respect of the cost of the transport of the wheat from the place at which, in the opinion of the Board, the wheat would have been so delivered to the appropriate terminal port in relation to that place;
- (ii) charges by the Board in respect of so much of the cost to the Board of that proportion of the remuneration payable under the Commonwealth Act to the authorized receiver at the place referred to in subparagraph (i) that is specified in a notice from the authorized receiver to the Board under section 27 as would be applicable to the wheat if the wheat had been delivered to the authorized receiver at that place; and
- (iii) the corn sacks (if any) in which the wheat was when acquired by the Board;

(e) where the wheat was delivered to the Board after the day (if any) that is the final delivery day for the season (being a day declared under section 25 (1) of the Commonwealth Act)—charges by the Board in respect of the administrative costs incurred by the Board in respect of the wheat that are additional to the administrative costs that would have been incurred if the wheat had been delivered before that day; and

(f) other necessary adjustments.

(3) In subsection (2) (b), “prescribed class”, in relation to wheat, means a class of wheat determined by the Minister, being a class so determined by reference to a variety or varieties of wheat, whether or not it is also so determined by reference to another criterion or other criteria.

(4) The Board may, with the approval of the Commonwealth Minister, make advances to a person on account of advance payments referred to in subsection (1).

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(5) The rate at which an advance under subsection (4), being an advance in respect of wheat of any season after the season that commenced on 1st October, 1979, is calculated shall not be greater than 85 per cent of the guaranteed minimum price for wheat of the immediately preceding season.

(6) An advance payment under subsection (1) in respect of wheat shall be reduced by an amount equal to the aggregate of—

- (a) the amount of any advance under subsection (4); and
- (b) the amount of any advance payment made by the Board under an Act repealed by this Act,

in respect of that wheat.

(7) The obligation of the Board under this section in respect of any wheat is subject to the operation of the Wheat Tax Acts and the Wheat Levy Acts.

(8) In this section, "season" does not include the season commencing on 1st October, 1984, or the season commencing on 1st October, 1985.

17. (1) Where the net pool return rate for wheat of a season exceeds the guaranteed minimum price for wheat of that season, the Board shall make a final payment of an amount determined in accordance with subsection (2) for any wheat of that season acquired by the Board under this Act. Final payment for wheat of season other than last two seasons

(2) The Board shall determine an amount payable under subsection (1) in respect of any wheat by—

- (a) calculating the amount that the advance payment in respect of the wheat under section 16 would have been if the reference in that section to the guaranteed minimum price for wheat were a reference to the net pool return rate for the wheat; and
- (b) deducting from that amount the amount of the advance payment in respect of the wheat.

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(3) A reference in subsection (2) to the advance payment in respect of any wheat shall be read as a reference to the advance payment in respect of that wheat before any reduction is made under section 16 (6).

(4) Where the net pool return rate for wheat of a season does not exceed the guaranteed minimum price for wheat of that season, the advance payment under section 16 (including any advance under section 16 (4)), and any advance made under an Act repealed by this Act, in respect of any wheat of that season shall be regarded as the final payment for that wheat.

(5) The Board may, with the approval of the Commonwealth Minister, make advances on account of final payments referred to in subsection (1).

(6) In this section, "season" does not include the season commencing on 1st October, 1984, or the season commencing on 1st October, 1985.

**Payment
for wheat
of last two
seasons.**

18. (1) In this section, "season to which this section applies" means the season commencing on 1st October, 1984, and the season commencing on 1st October, 1985.

(2) Where wheat of a season to which this section applies is acquired by the Board under this Act, the Board shall pay for that wheat an amount determined in accordance with subsection (3).

(3) The Board shall determine an amount payable under subsection (2) in respect of any wheat by calculating an amount equal to the amount that the advance payment in respect of the wheat under section 16 would have been if—

- (a) that section were applicable to wheat of a season to which this section applies; and
- (b) the reference in that section to the guaranteed minimum price for wheat were a reference to the net pool return rate for the wheat.

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(4) The Board may, with the approval of the Commonwealth Minister, make advances on account of payments referred to in subsection (2).

(5) The obligation of the Board under this section in respect of any wheat is subject to the operation of the Wheat Tax Acts and the Wheat Levy Acts.

19. (1) Subject to subsections (4) and (5) and to any other law to which the Board is subject, an amount payable under section 16, 17 or 18 in respect of any wheat 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 acquisition of the wheat by the Board. Payment by Board.

(2) The same rights (if any) exist against the person receiving an amount paid by the Board under section 16, 17 or 18 in respect of wheat as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat by him, and any such rights may be enforced by action in any court 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) Subject to subsection (5), an assignment of moneys payable by the Board in respect of wheat delivered to the Board (not including a registered crop lien) is void as against the Board.

(5) Where a person has assigned moneys payable to him by the Board in respect of wheat 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.

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

20. (1) In this section—

“final delivery day”, in relation to a season, means the day declared by the Commonwealth Minister under section 25 (1) of the Commonwealth Act, or under the corresponding provision of an Act repealed by the Commonwealth Act, to be the final delivery day for that season;

“season” includes any period that is a season for the purposes of an Act repealed by this Act.

(2) A person who, after the final delivery day for a season—

- (a) delivers to an authorized receiver wheat harvested in that season; or
- (b) serves a notice on the Board under section 14 (1) with respect to wheat harvested in that season,

shall, at the time of the delivery of the wheat or of the service of the notice, as the case may be, deliver to the authorized receiver or serve by post on the Board, as the case may be, a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

PART III.

SALE OF WHEAT BY THE BOARD FOR USE OR CONSUMPTION
IN AUSTRALIA.

Home
consumption
price of
wheat.

21. (1) The price at which, in the year commencing on 1st December, 1979, or any of the next 4 succeeding years, the Board shall, by a contract made in the State (other than a contract entered into under section 14), sell wheat for use or consumption in Australia is the appropriate price that is applicable in accordance with this section.

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(2) Subject to subsection (3), the price for Australian standard white wheat in bulk sold free on rail at a port of export for human consumption in Australia is—

- (a) in respect of the year commencing on 1st December, 1979—\$127.78 per tonne; or
- (b) in respect of any of the 4 years succeeding that year—the price per tonne ascertained in respect of that year in accordance with Schedule 1.

(3) There shall be added to a price specified in, or ascertained under, subsection (2) in respect of a year such amount as the Minister, after consultation with the Board, considers to be necessary to be included in the price of all wheat sold by the Board in that year for human consumption in Australia for the purpose of enabling the Board to meet the costs of shipment of wheat by the Board to a port in Tasmania.

(4) Subject to subsection (5)—

- (a) the price for Australian standard white wheat in bulk sold free on rail at a port of export for a use (in this paragraph referred to as “the relevant use”) in Australia that is a stock-feed use is such price as is determined from time to time by the Board in respect of the relevant use; and
- (b) the price for Australian standard white wheat in bulk sold free on rail at a port of export for a use (in this paragraph referred to as “the relevant use”) in Australia that is an industrial use is such price as is determined from time to time by the Board in respect of the relevant use.

(5) A price determined for a relevant use under subsection (4)—

- (a) shall not vary as between wheat at one port of export and wheat at another port of export; and

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(b) shall be the same as any corresponding price determined by the Board under a provision of the Commonwealth Act, or of a State Act, that corresponds to subsection (4).

(6) The price in respect of wheat that is not Australian standard white wheat in bulk sold free on rail at a port of export is such price as the Board determines by adding to, or deducting from, the price that would be applicable to the wheat if it were Australian standard white wheat in bulk sold free on rail at a port of export an amount by way of allowances in respect of the quality of the wheat, the conditions of sale and the place of delivery, or in respect of one or more of those matters, as the case requires.

(7) The Board may discount a price for wheat sold by the Board other than for human consumption on the basis of the quantity of wheat so sold.

Special
account
for freight
to
Tasmania.

22. (1) Subject to this section, the Board shall keep a separate account of the moneys received by the Board by reason of the inclusion in the price for a sale of wheat to which section 21 applies of an amount referred to in section 21 (3) 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) with any similar account or accounts to be kept by it under the Commonwealth Act or under a State Act.

(3) The Board shall use the moneys referred to in subsection (1) in meeting the costs of shipment of wheat by the Board to a port in Tasmania, and shall not use for that purpose any other moneys derived by it from the sale of wheat acquired by it in pursuance of this Act.

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(4) Any moneys referred to in subsection (1) that remain unexpended after the Board has made the final payment required to be made under subsection (3) shall be applied by the Board for the benefit of the wheat industry in such manner as the Commonwealth Minister, after consultation with the appropriate Minister of each State, directs.

(5) Any moneys referred to in section 20 (1) of the Wheat Industry Stabilization Act, 1974, as continued in force by section 4 (2), that remain unexpended after the Board has made the final payment required to be made under section 20 (3) of that Act shall be deemed to be moneys referred to in subsection (1).

(6) In relation to sales of wheat by the Board for shipment to a port in Tasmania in respect of which the Board bears the cost of shipment, the Board shall take such measures as are practicable to obtain recoupment of the cost of the shipment in respect of such of that wheat as is used in the production in Tasmania of wheat products that are sent to other States for consumption in Australia, and may include in any contracts made by the Board provisions for that purpose.

(7) Any moneys received by the Board in accordance with subsection (6) by way of recoupment of costs of shipment shall be deemed to be moneys referred to in subsection (1).

(8) A reference in this section to a port in Tasmania shall be read as a reference to the port, or the first port, in Tasmania at which the wheat concerned is landed.

23. (1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, sections 16 and 17 have effect as if references in those sections to wheat of a season were references to wheat included in the pool for that season in accordance with this section.

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(2) For the purposes of this section, "quota wheat", in relation to a quota season (in this subsection referred to as "the relevant season") means wheat of the relevant season acquired by the Board in the relevant season, or wheat of an earlier quota season acquired by the Board in the earlier quota season but not included in the pool for that season, or acquired by the Board in the relevant season, being in either case—

- (a) wheat that appears from the records of the Board to be part of a quota allocated, in respect of the relevant season, to the State in which it was acquired by the Board under arrangements between the Commonwealth Government and the Governments of the States relating to wheat quotas; and
- (b) if, under the law of the State in which the wheat was acquired by the Board relating to wheat quotas, quotas have been allocated to individual persons in respect of the relevant season, wheat that appears from the records of the Board to be the whole or a part of a quota applicable in respect of the relevant season to a person under that law.

(3) The pool for a quota season (in this subsection referred to as "the relevant season") consists of the following wheat acquired by the Board :—

- (a) wheat that is quota wheat in relation to the relevant season;
- (b) any other wheat of the relevant season or of an earlier quota season acquired by the Board in the relevant season that is declared by the Board to have been sold by the Board, by way of export sale or sale for export, at a premium on the price of Australian standard white wheat, and paid for in full, during the relevant season; and
- (c) any other wheat, being wheat of an earlier quota season, that—
 - (i) was acquired by the Board before the relevant season;

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- (ii) was not included in the pool for a season before the relevant season; and
- (iii) is declared by the Board to have been sold by the Board, and paid for in full, before or during the relevant season.

(4) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat acquired by the Board :—

- (a) wheat of that season; and
- (b) wheat of an earlier season, being a quota season, that was not included in the pool for an earlier season.

(5) The Board may, in such manner as it considers equitable, for the purposes of a declaration under subsection (3) (b) or (c), attribute sales of wheat of a particular kind to all or any of the wheat of that particular kind acquired from particular persons.

(6) For the purposes of this section—

- (a) the Australian Capital Territory shall be deemed to be part of New South Wales and the Northern Territory shall be deemed to be part of such State as is prescribed by regulations under the Commonwealth Act; and
- (b) wheat shall be deemed to have been acquired by the Board in a State if—
 - (i) it has been delivered to the Board in that State; or
 - (ii) in the case of wheat sold by the Board under section 14 or under the corresponding provision of the Commonwealth Act or of a State Act—the wheat was in the State at the time of the sale.

(7) In this section, a reference to wheat acquired by the Board shall be read as a reference to wheat so acquired under this Act, the Commonwealth Act or a State Act.

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PART IV.**MISCELLANEOUS.**

Appoint-
ment of
authorized
persons.

24. The Board or the Chairman may appoint a person, or persons included in a class of persons, to be an authorized person or authorized persons, as the case may be, for the purposes of a specified provision of this Act.

Informa-
tion to be
furnished.

25. (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, refuse or fail to comply with a requirement under this section.

(3) A person is not excused from furnishing information that he is required to furnish under this section on the ground that the information might tend to incriminate him or make him liable to a penalty, but any information so furnished is not admissible in evidence against him in proceedings other than proceedings for an offence against subsection (4).

(4) A person shall not furnish to the Board information that is false or misleading in a material particular.

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26. 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.

27. (1) As soon as practicable after the commencement of this Act, the Grain Elevators Board shall, by notice in writing to the Board, specify the proportion of the remuneration under the Commonwealth Act payable to it as an authorized receiver that, in its opinion, is referable to capital expenditure (including depreciation allowances and maintenance costs) in relation to its facilities as an authorized receiver. Notice by authorized receiver with reference to capital expenditure.

(2) An authorized receiver may, from time to time, by notice in writing to the Board, vary a proportion specified in a notice under subsection (1).

(3) Before giving a notice under subsection (1) or (2), the authorized receiver shall consult with The Livestock and Grain Producers' Association of New South Wales.

28. (1) Subject to subsection (2), a Commonwealth Police Officer, a member of the police force of a State or Territory or an authorized person may, at all reasonable times, for the purpose of exercising any of the functions of an authorized person under this section, enter any premises where he has reasonable grounds to believe that wheat is or corn sacks are stored, or any accounts, documents, books or papers relating to wheat, to wheat products or to corn sacks are kept. Access to premises and motor vehicles.

(2) Subsection (1) does not authorize any person to enter that portion of any premises that is used for residential purposes, without the consent of the occupier of that portion.

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(3) A Commonwealth Police Officer or a member of the police force of a State or Territory may, for the purpose of exercising any of the functions of an authorized person under this section, stop and detain any motor vehicle upon a public street in which he has reasonable grounds to believe that there is wheat or there are corn sacks, or any accounts, documents, books or papers relating to wheat, to wheat products or to corn sacks.

(4) Where a Commonwealth Police Officer or a member of the police force of a State or Territory or an authorized person has reasonable grounds to believe that—

- (a) there is on any premises wheat that is the property of the Board or wheat the delivery of which has been lawfully demanded by the Board under this Act; or
- (b) there are on any premises accounts, documents, books or papers relating to wheat, to wheat products or to corn sacks,

that Officer or member of the police force or authorized person, as the case may be, may make application to a Justice of the Peace for a warrant authorizing that Officer or member of the police force or authorized person to enter those premises for the purpose of exercising the functions of an authorized person under this section.

(5) If, on an application under subsection (4), a Justice of the Peace is satisfied by information under oath—

- (a) that there are reasonable grounds for believing that there is on any premises any wheat, or that there are on any premises any accounts, documents, books or papers, referred to in subsection (4); and
- (b) that the issue of a warrant is reasonably required for purposes of, or related to the operation of, this Act,

the Justice of the Peace may grant a warrant authorizing the applicant, with such assistance as the applicant thinks necessary, to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising any of the functions of an authorized person under this section.

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(6) The functions of an authorized person under this section are—

- (a) to search for and inspect wheat or corn sacks;
- (b) to demand that the occupier of any premises or, as the case may require, the person in charge of a motor vehicle, produce any accounts, documents, books or papers relating to wheat, to wheat products, or to corn sacks;
- (c) to search for, inspect, take extracts from and make copies of any accounts, documents, books or papers referred to in paragraph (b);
- (d) to take possession of and remove any wheat that he reasonably suspects is the property of the Board or is wheat the delivery of which has been lawfully demanded by the Board under this Act; and
- (e) to make any inquiry that he considers necessary relating to wheat, to wheat products or to corn sacks.

(7) A person shall not—

- (a) obstruct or hinder a person lawfully exercising the functions of an authorized person under this section;
- (b) fail or refuse to produce any accounts, documents, books or papers referred to in subsection (6) (b); or
- (c) make any false or misleading statement in answer to any inquiry referred to in subsection (6) (e).

(8) On the taking possession, as referred to in subsection (6) (d), of wheat that, immediately before that taking, was not the property of the Board, the wheat becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts.

(9) In this section, “occupier”, in relation to any premises, includes a person in charge of those premises.

*Wheat Marketing.*Use of
funds by
Board.

29. 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 prevents 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 of a State Act.

Offences.

30. 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 \$2,000 or imprisonment for a term not exceeding 6 months, or both.

Regulations.

31. 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, making provision for penalties not exceeding a fine of \$500 for offences against the regulations.

Section
21 (2).

SCHEDE 1.

PRICE PER TONNE OF WHEAT.

1. The price per tonne of wheat in respect of any year shall be ascertained in accordance with the following formula:—

$$(1 + 0.6A) (0.5B + 0.5C) + 0.6C (1.2 - D)$$

where—

A = a number less by one than the number obtained by dividing the index number of the Index of Prices Paid by Farmers for the quarter ended on 30th June immediately before the beginning of the subject year published by the Bureau of Agricultural Economics by the index number of that Index for the quarter ended 30th June immediately preceding the first-mentioned 30th June;

*Wheat Marketing.*SCHEDULE 1—*continued.*PRICE PER TONNE OF WHEAT—*continued.*

B = the amount of the price per tonne specified in, or ascertained under, section 21 (2) in respect of the year immediately preceding the subject year;

C = an estimate of the amount of the average export price per tonne for Australian standard white wheat of the season that commenced on 1st October immediately preceding the commencement of the subject year that has been, or will be, disposed of by the Board by way of export sale or sale for export, being an estimate made by the Commonwealth Minister having regard to any advice or information furnished to him by the Board or the Bureau of Agricultural Economics;

D = the number obtained by dividing the number of cents in the aggregate of the home consumption prices for wheat in respect of the 8 years preceding the subject year by the number of cents in the aggregate of the average export prices for wheat of the 8 seasons that commenced on 1st October immediately preceding each of those 8 years.

2. For the purpose of ascertaining the value of "D" in the formula set out in paragraph 1—

- (a) the reference to home consumption prices for wheat shall be read as a reference to—
 - (i) in so far as the reference relates to the year commencing on 1st December, 1979, or a subsequent year—the amount of the price per tonne specified in, or ascertained under, section 21 (2) in respect of that year;
 - (ii) in so far as the reference relates to the year that commenced on 1st December, 1978—\$138.05;
 - (iii) in so far as the reference relates to the year that commenced on 1st December, 1977—\$122.34;
 - (iv) in so far as the reference relates to the year that commenced on 1st December, 1976—\$101.95;
 - (v) in so far as the reference relates to the year that commenced on 1st December, 1975—\$84.96;
 - (vi) in so far as the reference relates to the year that commenced on 1st December, 1974—\$70.80;

*Wheat Marketing.***SCHEDULE 1—continued.****PRICE PER TONNE OF WHEAT—continued.**

- (vii) in so far as the reference relates to the year that commenced on 1st December, 1973—\$59.00; and
- (viii) in so far as the reference relates to the year that commenced on 1st December, 1972—\$55.48; and
- (b) the reference to average export prices for wheat shall be read as a reference to—
 - (i) in so far as the reference relates to a season in respect of which all relevant information is in the possession of the Board—the amount per tonne of the average export price, f.o.b., for Australian standard white wheat of that season that has been disposed of by the Board by way of export sale or sale for export; and
 - (ii) in so far as the reference relates to any other season—an estimate of the amount per tonne of the average export price, f.o.b., for Australian standard white wheat of that season that has been, or will be, disposed of by the Board by way of export sale or sale for export, being an estimate made by the Commonwealth Minister having regard to any advice or information furnished to him by the Board or the Bureau of Agricultural Economics.
- 3. Where the difference (in this paragraph referred to as “the relevant difference”) between the amount (in this paragraph referred to as “the ascertained amount”) of the price per tonne of wheat ascertained in accordance with the formula in this Schedule in respect of a year and the amount (in this paragraph referred to as “the other amount”) of the price per tonne of wheat specified in, or ascertained under, section 21 (2) in respect of the year immediately preceding the first-mentioned year exceeds an amount (in this paragraph referred to as “the maximum difference”) equal to 20 per cent of the other amount, then—
 - (a) where the ascertained amount exceeds the other amount—the ascertained amount shall be reduced by the amount by which the relevant difference exceeds the maximum difference; or
 - (b) in any other case—the ascertained amount shall be increased by the amount by which the relevant difference exceeds the maximum difference.

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SCHEDULE 1—*continued.*

PRICE PER TONNE OF WHEAT—*continued.*

4. A reference in this Schedule to a price specified in, or ascertained under, section 21 (2) shall be read as not including a reference to any addition to that price under section 21 (3).

5. In this Schedule—

“season” means a period of 12 months commencing on 1st October;
“year” means a period of 12 months commencing on 1st December.
