

**GRAIN HANDLING (AMENDMENT) ACT,
1982, No. 114**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 114, 1982.

An Act to amend the Grain Handling Act, 1954, with respect to the issue of wheat delivery dockets and penalties for offences under that Act; and in other respects. [Assented to, 7th December, 1982.]

See also Wheat Marketing (Grain Handling) Amendment Act, 1982.

Grain Handling (Amendment).

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

Short title.

1. This Act may be cited as the "Grain Handling (Amendment) Act, 1982".

Commencement.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 4, in its application to Schedule 1 (1), (2), (7) (a) and (7) (b), and Schedule 1 (1), (2), (7) (a) and (7) (b) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE GRAIN HANDLING ACT, 1954.

SCHEDULE 2.—AMENDMENTS TO THE GRAIN HANDLING ACT, 1954,
BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 36, 1954.

4. The Grain Handling Act, 1954, is amended in the manner set forth in Schedules 1 and 2.

Grain Handling (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE GRAIN HANDLING ACT, 1954.

(1) Sections 14–17—

Omit the sections, insert instead:—

Delivery docket to be issued.

14. (1) The Authority shall cause a delivery docket to be issued to the driver of any motor vehicle which is loaded with wheat in the Authority's charge for transportation by public road.

(2) A delivery docket issued to the driver of a motor vehicle pursuant to subsection (1) shall—

- (a) specify the date on which and time at which the vehicle was loaded with wheat;
- (b) specify the name and address of the storage or handling facility at which the vehicle was loaded with wheat;
- (c) except as provided in paragraph (d), specify the name of the consignee of the wheat;
- (d) where the wheat is to be transported to some other storage or handling facility owned or operated by the Authority, specify the name of that other facility;
- (e) specify the address of the place at which the wheat is to be unloaded from the vehicle; and
- (f) contain such other particulars as the Authority may determine.

Delivery docket to be carried in vehicle and kept by consignee, etc.

15. (1) The driver of a motor vehicle to whom a delivery docket is issued pursuant to section 14—

- (a) shall, until the wheat is unloaded from the vehicle, carry the docket in the vehicle;

Grain Handling (Amendment).

*SCHEDULE 1—continued.**AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—continued.*

- (b) shall unload the wheat from the vehicle at the place specified in the docket for that purpose, unless he is prevented from doing so by accident or he has other reasonable cause for not doing so; and
- (c) shall, as soon as practicable after the wheat is unloaded from the vehicle—
 - (i) except as provided in subparagraph (ii), give the docket to the consignee of the wheat or the person taking delivery of the wheat on behalf of the consignee; or
 - (ii) where the wheat is unloaded at a storage or handling facility owned or operated by the Authority, give the docket to the person in charge of that facility.

(2) Where, pursuant to subsection (1) (c) (i), a delivery docket is given to the consignee of wheat or to a person taking delivery of wheat on behalf of the consignee of wheat, that consignee shall retain the docket for a period of at least 12 months.

Penalty: \$2,000.

Weighbridges.

16. (1) A person shall not do anything that causes a weighbridge owned or operated by the Authority to weigh incorrectly.

(2) Where a servant of the Authority authorised by the Authority for the purposes of this section has reasonable grounds for believing that a motor vehicle at a storage or handling facility owned or operated by the Authority has not been weighed correctly, he may direct the driver of the vehicle to have the vehicle reweighed.

(3) The driver of a motor vehicle shall not fail or refuse to comply with a direction under subsection (2).

Penalty: \$2,000 or imprisonment for 2 years.

Grain Handling (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

(2) Section 19—

Omit the section.

(3) Section 29—

Omit “two hundred dollars” wherever occurring, insert instead “\$2,000”.

(4) Sections 48, 48A—

Omit section 48, insert instead:—

Authority to keep accounts.

48. (1) The Authority shall cause to be kept proper accounts and records in relation to all of its operations.

(2) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General and shall exhibit a true and fair view of the financial position and transactions of the Authority.

(4) The Authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

Grain Handling (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Authority relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Authority shall be—

- (a) except as provided by paragraph (b)—the year ending on 31st October; or
- (b) the period prescribed for the purposes of this section.

Audit.

48A. (1) The accounts and records of financial transactions of the Authority, and the records relating to assets of or in the custody of the Authority, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Authority and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member or servant of the Authority, to furnish him with such information in the possession of the person

Grain Handling (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Authority shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

(5) Section 53A—

After section 53, insert:—

Offences by corporations.

53A. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
 - (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision;
- or

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SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

(c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.

(2) A person may, pursuant to subsection (1), be proceeded against and convicted under a provision of this Act or the regulations whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothin in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

(6) Section 56—

After section 55, insert:—

Annual report.

56. (1) The Authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the Authority as referred to in section 48 (8), prepare and forward to the Minister a report of its work and activities for that financial year.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

(7) (a) Section 57 (1) (d)—

Omit “and warrants issued”.

(b) Section 57 (1) (f), (g), (h)—

Omit the paragraphs, insert instead:—

(f) delivery dockets issued under section 14;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

(c) Section 57 (2)—

Omit “one hundred dollars”, insert instead “\$1,000”.

(8) (a) Schedule 1, clause 10 (1) (k)—

Omit “or”.

(b) Schedule 1, clause 10 (1) (l), (m)—

Omit clause 10 (1) (l) of Schedule 1, insert instead:—

(l) if he fails to comply with clause 10A; or

(m) upon his attaining the age of 65 years.

(c) Schedule 1, clause 10A—

After clause 10, insert:—

Disclosure of pecuniary interests.

10A. (1) A member who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Authority; or

(b) in a thing being done or about to be done by the Authority,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) A disclosure by a member at a meeting of the Authority that—

(a) he is a member or is in the employment of a specified company or other body;

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SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN HANDLING ACT, 1954—*continued.*

(b) he is a partner or in the employment of a specified person; or

(c) he has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of his interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Authority shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Authority from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of his interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

(a) be present during any deliberation of the Authority, or take part in any decision of the Authority, with respect to the matter; or

(b) exercise any of his functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member fails to comply with this clause, that failure does not invalidate any decision of the Authority or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a wheatgrower or a servant of the Authority.

Grain Handling (Amendment).

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE GRAIN HANDLING ACT, 1954, BY WAY OF
STATUTE LAW REVISION.

(1) Section 12A (3) (a)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

(2) (a) Section 21—

Omit “Nothing in this section affects the operation of the Wheat Industry Stabilization Act, 1974, with respect to the remuneration payable to the Authority thereunder as a licensed receiver.”.

(b) Section 21 (2)—

At the end of section 21, insert:—

(2) Nothing in subsection (1) affects the operation of the Wheat Marketing Act, 1979, with respect to the remuneration payable to the Authority as an authorized receiver.

(3) Section 22—

Omit “, as amended by subsequent Acts”.

(4) Section 23 (3)—

Omit the subsection.

(5) (a) Section 24A (2)—

Omit “Commissioner for Railways”, insert instead “State Rail Authority”.

(b) Section 24A (2)—

Omit “Commissioner” where secondly and thirdly occurring, insert instead “State Rail Authority”.

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SCHEDULE 2—*continued.*AMENDMENTS TO THE GRAIN HANDLING ACT, 1954, BY WAY OF
STATUTE LAW REVISION—*continued.*

(6) (a) Section 26 (1)—

Omit “, or any amendment thereof”.

(b) Section 26 (1)—

Omit “, as amended by subsequent Acts” wherever occurring.

(c) Section 26 (1)—

Omit “1902”, insert instead “1979”.

(7) (a) Section 57 (l) (k)—

Omit the paragraph.

(b) Section 57 (3), (4)—

Omit the subsections, insert instead:—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
