

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 November, 1921.*

New South Wales.



ANNO DUODECIMO

GEORGII V REGIS.

Act No. , 1921.

An Act to confer certain powers upon the Government of New South Wales in regard to the acquisition and marketing of wheat; to provide for the cancellation of certain contracts; to amend certain Acts; and for purposes connected therewith.

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
5 the same, as follows:—

1. This Act may be cited as the "Wheat Marketing Short title. Act, 1921."

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2. In this Act, unless the context otherwise requires,—

“Board” means State Wheat Board appointed under this Act.

5 “Minister” means Minister of Agriculture.

“Mortgage” includes pledge, charge, trust, lien (including any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898), or other incumbrance affecting wheat, and any contract entered into by the owner of

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“Prescribed” means prescribed by this Act or by any regulation made thereunder.

“Wheat” means—

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(a) wheat which is or shall be harvested in New South Wales during the season 1921–1922, and is not the subject of inter-state trade, commerce, or intercourse; and,

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(b) wheat, and the gristing products of wheat, not harvested in New South Wales during the season 1921–1922, which is or shall be in New South Wales, and is not the subject of inter-state trade, commerce, or intercourse, and is not subject to the control of the customs.

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3. (1) (a) The Governor shall, as soon as practicable after the passing of this Act, appoint a board of five persons, three of whom shall be wheat-growers and one of whom shall be the Minister, who shall be chairman

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of the board.
(b) The board shall be called the State Wheat Board and, subject to the approval of the Minister, shall have the powers and perform the duties conferred and imposed upon it by this Act. The members of such

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board shall be paid such remuneration as the Governor shall think fit.
(c) Upon the appointment of the board the State Wheat Board appointed under the Wheat Marketing Act, 1920, shall be dissolved, and the assets, rights, liabilities, powers, and functions of the said board shall be vested in the board appointed under this Act.

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(d)

Definitions.

Appointment and powers of the board.

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(d) Any three members of the board shall be a quorum, and, subject to this section, shall have all the powers and authority conferred upon the board by this Act.

5 (e) In case of the illness or absence of any member of the board, the Governor may appoint a deputy to act for such member during his illness or absence; and every such deputy shall, while so acting, have all the powers and carry out all the duties of such
10 member.

(f) If at any meeting of the board from which the Minister is absent the members present differ in opinion upon any matter, and are equally divided thereon, such difference of opinion shall be forthwith
15 reported to the Minister, who may postpone the determination of such matter to a meeting at which he is present.

(g) The board shall cause minutes of its proceedings and decisions to be kept, and a copy of the minutes of any meeting from which the Minister is
20 absent shall be forwarded to him forthwith after the close of such meeting.

(2) The board may appoint such officers and agents as it may think necessary for the purposes of this Act, and such officers and agents shall be paid such
25 salaries, commission, and allowances as are fixed by the board, and shall not be subject to the provisions of the Public Service Acts.

4. The board shall give absolute preference in employment to members of bona fide unions in the handling of
30 all wheat in connection with the administration of this Act.

5. (1) The Minister may join with Ministers of the Crown representing the Commonwealth of Australia and any of the States or with any association of persons
35 formed in any State for the purpose of acquiring or marketing wheat, in formulating any scheme for concerted action in marketing wheat or any modification of any such scheme, and may on behalf of the Government agree to any scheme or modification as aforesaid and to
40 any acts, matters, or things necessary or expedient to carry the same into operation.

Preference of employment to members of bona fide unions.

Minister may join in scheme for concerted action in marketing wheat.

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(2) The Minister, whether in conjunction with Ministers of the Crown or any association as aforesaid or otherwise, may arrange with any bank, or with the Government of the Commonwealth of Australia, for financial accommodation, and for the repayment of any moneys so provided.

(3) For the purposes of this section wheat means wheat whether grown or harvested in New South Wales or elsewhere.

10 **6.** Within twenty-one days after the publication of a notification in the Gazette, every grower or owner of wheat which is grown or growing in New South Wales, and which on the date of the publication of such notification was the subject of interstate trade, com-
15 merce, or intercourse shall give notice in writing to the board containing the particulars relating to such wheat required by such notification. Any such grower or owner who fails to comply with the provisions of this section, or who wilfully furnishes any false or misleading
20 information, shall be liable to a penalty not exceeding two hundred pounds.

Notice to be given of wheat which is the subject of inter-state trade.

7. (1) The Governor may, by notification published in the Gazette, declare that any wheat described in such notification is acquired by His Majesty.
25 In such notification it shall be sufficient to describe the wheat so acquired in any manner by which the wheat may be identified.

Acquisition of wheat.

(2) Upon publication of any such notification the wheat therein described shall become the absolute
30 property of His Majesty, freed from all mortgages affecting the same, and the right and interest of every person in such wheat shall be converted into a claim for compensation under this Act.

(3) The production of a copy of the Gazette containing any such notification shall be conclusive
35 evidence that the wheat described in such notification was acquired by His Majesty upon the date therein specified.

(4) The onus of proving that any wheat does not
40 come within the terms of any notification shall be upon the person having possession or control of such wheat.

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8. (1) Upon the publication of any such notification all wheat therein described, which is not exempted from delivery as hereinafter provided, shall be delivered to the board by the person owning or having the possession or control of such wheat immediately prior to such publication, within such time, at such place, and in such manner as may be prescribed.

Wheat to be delivered to board.

(2) If such owner or person wilfully neglects or refuses to deliver any such wheat as aforesaid he shall be liable to a penalty not exceeding two hundred pounds, and any person authorised by the board may take possession of such wheat on behalf of His Majesty and remove the same to a place specified by the board. Any expense thereby incurred shall be deducted from the amount of compensation payable as hereinafter provided.

(3) Any person who, without the consent of the board, delivers to or tenders for acceptance by the board any wheat which has been harvested in New South Wales during any season prior to the season 1921-1922, shall be liable to a penalty not exceeding two hundred pounds.

9. (1) The Governor may, by regulation under this Act, exempt any wheat from delivery to the board. Such wheat shall thereupon, at the date of the publication of the regulation, or at a time specified in such regulation, cease to be the property of His Majesty, and shall become the property of the person owning such wheat immediately prior to its acquisition under this Act, subject, however, to such mortgages as at such time affected the said wheat.

Exemption of wheat from delivery.

(2) The board's decision as to whether any wheat falls within the limits of any such exemption shall be final, and shall not be subject to review by any court

10. All wheat delivered to the board shall be delivered in the name of the owner of such wheat. Any person failing to comply with the provisions of this section shall be liable to a penalty not exceeding one hundred pounds.

Wheat to be delivered in name of owner.

11. (1) As soon as practicable after the delivery of any wheat to the board, the board shall issue to the owner thereof a certificate in the prescribed form: Provided that

Certificate for wheat delivered, to be issued to owner.

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that the board, if it has received notice of any mortgage affecting such wheat, may in its discretion refuse or withhold the issue of such certificate.

(2) Where the wheat is grown under a share-farming agreement the board may, in its discretion, issue a separate certificate to each of the parties to such agreement.

(3) A certificate shall not be transferable without the consent of the board.

10 **12.** (1) The compensation to be paid by the board for wheat harvested in New South Wales during the season 1921-1922 shall be the amount realised by the board for such wheat, after the deduction of all expenditure by the board, and shall be divided among
15 the persons entitled thereto in proportion to their deliveries, subject to any adjustments which the board may think just and equitable.

Compensation for wheat acquired.

(2) The compensation to be paid by the board for wheat which is not harvested in New South Wales
20 shall be such reasonable sum as the board shall determine.

(3) Compensation shall not be payable in respect of any wheat acquired under this Act unless such wheat has been delivered to the board or taken possession of under the provisions of section seven.

25 (4) The compensation payable for any wheat shall be paid in such instalments, at such times, on such terms and conditions, and in such manner as the board may determine.

(5) For the purpose of ascertaining the amount
30 of such compensation or of any instalment thereof, and generally for the purposes of this Act, the board's decision as to the quality of any wheat, dockages, and all expenditure incurred in and about the acquisition and marketing thereof shall be final, and shall not be
35 subject to review by any court.

13. Where the board in good faith has paid or authorised payment of any compensation or instalment thereof in connection with any wheat acquired under this Act, such payment shall discharge the Crown, the
40 board, and the Minister and all persons acting under the authority of any of them, from any liability in respect

Payment of compensation in good faith to operate as discharge.

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respect of the acquisition of such wheat, or the payment of compensation therefor, and it shall not be necessary in any case for the Minister or the board to see to the application of any compensation paid hereunder or to see to the performance of any trusts :

Provided that nothing herein shall prejudice or affect any right of action by any person claiming to be entitled to compensation against the person to whom compensation has been paid.

10 **14.** (1) Every person owning or having the possession or control of any wheat prior to its acquisition under this Act shall, when delivering the same to the board, give to the person authorised by the board to receive such wheat, notice in the form prescribed of any
15 mortgage affecting such wheat.

Notice of mortgage to be given to board.

(2) A notice given in respect of a delivery made to any person authorised by the board to receive wheat at one railway station or place of delivery shall not be deemed to be a compliance with this section in respect
20 of a delivery made to any other person authorised by the board to receive wheat at the same or any other railway station or place of delivery.

(3) Any person wilfully guilty of a contravention of or failure to comply with any of the provisions of
25 this section shall be liable to a penalty not exceeding one hundred pounds.

15. No person shall be entitled to payment by the board of any compensation by reason of any mortgage, unless he has given notice in writing to the board of
30 such mortgage in the form prescribed, and where such notice has been given, the board shall not be liable for payment of any portion of the compensation, payable in respect of the wheat affected by such mortgage, which, prior to the receipt of such notice, has been paid by the
35 board to any other person.

Mortgagee to give notice before payment of compensation.

16. The board shall, on behalf of the Government, sell or dispose of any wheat acquired under this Act at such times, at such prices, on such terms of payment, and in such manner as it may think fit.

Wheat acquired to be sold by board.

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17. (1) Any contract made before the passing of this Act, so far as it relates to the sale of wheat for delivery in New South Wales shall, when so declared by the Minister 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 had not at the date of such notification been completed by delivery: Provided that for the purposes of this section such contract shall be deemed to be severable.

Contracts made before passing of Act may be declared to be void.

(2) 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 hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

18. All penalties recovered under this Act shall be paid to the Minister and shall be applied towards the expenses of carrying this Act into execution.

Penalties to be applied towards expenses of Act.

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

Books and accounts to be kept by board.

(2) The accounts of all moneys received and paid as aforesaid shall be audited by the Auditor-General who shall have, with respect to such accounts, all the powers conferred upon him by the Audit Act, 1902.

(3) The board shall furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of the moneys received by the board, and of the expenditure thereof.

(4) Copies of such accounts and of such statements shall be laid before both Houses of Parliament if then sitting, or if not then sitting, at the next ensuing session thereof.

(5) A statement setting forth as accurately as is practicable the transactions of the board and its financial position shall be furnished by the board once in each month, and shall be published in the manner prescribed.

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20. The board may in its absolute discretion withhold or refuse to issue a certificate to the owner of wheat acquired under this Act, if such owner is indebted to the Government for any advance made to him for any purpose, and may refuse to pay the whole or any part of the compensation which would otherwise be payable in respect of such wheat, and may apply such compensation or part thereof in payment or part payment of the said advance, and the foregoing powers may be exercised notwithstanding any mortgage over the said wheat, provided that such mortgage was executed or created after the making of the aforesaid advance.

Board may refuse to issue certificate.

21. (1) The board may from time to time, by notice in the Gazette and two daily newspapers published in the State, require all or any specified persons owning or having in their possession or control any wheat, to furnish a return in the form required by such notice showing the quantity of wheat held at any time specified in such notice, and setting forth such other particulars (if any) as may be specified therein.

Board may require returns to be made of wheat held.

(2) Any person who fails to comply with such notice or who wilfully furnishes any false or misleading return shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both penalty and imprisonment.

22. No action shall lie against any person for any act or thing done or omitted to be done by him under any authority conferred or purporting to be conferred upon him under this Act.

Action not to lie in certain cases.

23. (1) Notwithstanding anything in the Government Railways Acts of New South Wales or the law relating to common carriers, or any agreement to the contrary, the Railway Commissioners for New South Wales, and any common carrier, and any owner, charterer, master, or agent of any ship, may, on the request of the board, refuse to carry any wheat from any place in New South Wales, or, except as prescribed, to deliver any wheat.

Power of certain persons to refuse to carry or deliver wheat.

(2) With respect to any such refusal—
(a) all persons (including every Minister of the Crown, the board, and the said Commissioners)

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by whom any act, matter, or thing was advised, commanded, ordered, directed, or done, shall be and they are hereby discharged, released, and indemnified in respect thereof; and

- 5 (b) no action, claim, or demand shall lie or be made or allowed by or in favour of any person against the Government of New South Wales or any Minister of the Crown, the board, or the said Commissioners, or any officer, or any person
10 for or in respect of any damage, loss, or injury sustained or alleged to have been sustained by reason of such refusal.

24. (1) The Governor may make regulations pre- Regulation.
scribing—

- 15 (a) the forms which may be used under this Act;
(b) all matters required or permitted by this Act to be prescribed; and
(c) generally all matters necessary or expedient for
20 carrying out the provisions and the purposes of this Act.

(2) In any such regulations a penalty not exceeding one hundred pounds may be imposed for the breach of any such regulation. Any such penalty may be recovered before a stipendiary or police magistrate,
25 or any two justices of the peace in petty sessions.

(3) (a) All such regulations shall be published in the Gazette, and shall take effect from the date of publication or from a later date to be specified in such regulations, and shall be laid before both Houses of
30 Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

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