

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 27 November, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1974.

An Act to make certain provisions in relation to the marketing of wheat and the stabilization of the wheat industry; to repeal the Wheat Industry Stabilization Act, 1968; to amend the Grain Elevators Act, 1954, and certain other Acts; and for purposes connected therewith.

BE

Wheat Industry Stabilization.

5 **B**E 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.

1. This Act may be cited as the "Wheat Industry Short
Stabilization Act, 1974". Short
title.

10 2. This Act shall be deemed to have commenced on 1st Commence-
October, 1974. ment.

3. This Act is divided as follows :—

Division
into Parts.

PART I.—PRELIMINARY—ss. 1–6.

PART II.—MARKETING OF WHEAT—ss. 7–16.

15 PART III.—STABILIZATION PROVISIONS—ss. 17–20.

PART IV.—MISCELLANEOUS—ss. 21–28.

PART V.—AMENDMENTS, REPEALS AND SAVINGS
PROVISIONS—ss. 29–31.

SCHEDULE.

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

25 "appropriate Minister", in relation to a State, means a
Minister of State of the State administering the
Department of the State dealing with agricultural
matters, and includes a Minister of State of that
State acting on behalf of that Minister;

"Board"

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- “Board” means the Australian Wheat Board continued in existence by the Commonwealth Act;
- 5 “Commonwealth Act” means the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth as that Act is amended from time to time;
- 10 “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;
- 15 “licensed receiver” means a person, firm, company or State authority licensed by the Board to receive wheat on behalf of the Board;
- 20 “quota season” means a season declared by, or by proclamation under, the Commonwealth Act to be a quota season;
- “season”, in relation to wheat, means the period of twelve months commencing on 1st October during which the wheat was harvested;
- “wheat” means wheat of a season referred to in section 5;
- 25 “wheat products” means a substance (other than bran or pollard) produced by the gristing, crushing, grinding, milling or other processing of wheat, and includes any of the following products made from wheat :—
- 30 (a) flour, semolina, sharps, wheatmeal, starch, gluten, rice substitutes and breakfast foods; and
- (b) any other commodity produced mainly from other wheat products or from wheat.

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5. Except as otherwise provided by this Act, this Act applies in relation to the season commencing on 1st October, 1974, and each of the next six succeeding seasons. Seasons to which Act applies.

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 thereof 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. Act to apply subject to Constitution.

(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.

PART II.

MARKETING OF WHEAT.

7. (1) The Board may—

Powers of Board.

- (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) grist or arrange for the gristing of wheat and sell or otherwise dispose of the products of the gristing;

(e)

Wheat Industry Stabilization.

- 5 (e) manage and control all matters connected with, or arising out of, the handling, storage, protection, treatment, transfer, shipment or sale of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board; and
- 10 (f) 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
15 wheat products in such manner as will, in its judgment, attribute sales to wheat of different seasons in an equitable manner, and sales so attributed to wheat of a season shall be deemed to relate to wheat of that season.

(3) The exercise by the Board of the power conferred
20 upon it by subsection (1) (e) 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.

8. The Commonwealth Minister may give directions to the Board concerning the performance of its functions and the
25 exercise of its powers, and the Board shall comply with those directions. Directions by Minister.

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

(2) The Grain Elevators Board is entitled to a licence under this section.

(3)

Wheat Industry Stabilization.

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

5 (4) As from a day to be appointed by the Governor and notified by proclamation published in the Gazette—

(a) all licences granted or deemed to have been granted under this section (other than the licence granted to the Grain Elevators Board) and in force in the
10 State shall be deemed to be cancelled; and

(b) all wheat to be delivered to the Board in the State shall be delivered to the Grain Elevators Board as the sole licensed receiver of wheat on behalf of the Board in the State.

15 (5) The remuneration payable to the Grain Elevators Board as a licensed receiver shall be as agreed between the Minister and the Commonwealth 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.

20 (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

25 (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—

30 (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)

Wheat Industry Stabilization.

(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.

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

10 (4) A notice under this section 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 that has been sold by the Board; or

15 (c) wheat that has been sold or delivered to a person with the approval of the Board.

(5) A person shall not—

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

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

Penalty : An amount calculated in respect of the quantity of the wheat in respect of which the offence is committed at 25 the rate of \$200 per tonne or part thereof, or imprisonment for six months, or both.

(6) For the purposes of this section and of notices under this section, where a person has possession of wheat immediately upon its harvesting, that wheat shall be deemed 30 to have come into the possession of that person at the time of its harvesting.

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

5 (2) A licensed 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 a law of the State providing for the fixing
10 of wheat quotas.

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

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

12. (1) Except as provided in sections 10 and 11, or with the consent in writing of the Board, a person shall not— Unauth-
orized
dealings
with wheat.

(a) sell, deliver or part with the possession of, or take into his possession, or grist or otherwise process
25 (otherwise than for the purpose of the use of the produce of the gristing or processing on the farm where the wheat was grown), or mix with any other grain or substance, wheat of any season other than wheat specified in section 10 (4) (b) or (c);

30 (b) move, or cause or permit to be moved, from the farm where the wheat was grown—

- (i) wheat of any season, other than wheat specified in section 10 (4) (b) or (c); or
- (ii) wheat products produced from such wheat;

(c)

Wheat Industry Stabilization.

- (c) part with the possession of, or take into his possession, wheat of any season that is the property of the Board; or
- 5 (d) purport to sell or offer for sale, or purport to purchase or offer to purchase otherwise than from the Board, wheat of any season that is the property of the Board.

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

(2) For the purposes of this section—

- 15 (a) the wheat equivalent of any wheat products is the quantity of wheat used in, or used in the production of the materials used in, the wheat products;
- (b) a certificate of the Board specifying the wheat equivalent of a particular quantity of a particular kind of wheat products or the wheat equivalent of
 20 particular wheat products is prima facie evidence of the facts stated in the certificate; and
- (c) a person shall not be taken to part with the possession of wheat by reason only of the fact that he uses the wheat on the farm where it was grown.

25 **13.** (1) Where wheat is delivered to the Board in pursuance of section 10, the Board shall pay for that wheat (including the corn sacks, if any, in which the wheat is delivered) an amount determined by the Board in accordance with this section.

(2)

Wheat Industry Stabilization.

(2) The Board shall determine amounts payable under subsection (1) in respect of wheat of a season by—

- 5 (a) ascertaining the net proceeds of the disposal by the Board of all wheat of that season delivered to the Board in Australia (whether in pursuance of this Act or otherwise);
- 10 (b) deducting from the amount so ascertained an amount determined by the Board having regard to the extent to which freight charges in respect of the export of wheat of that season from the State of Western Australia to places outside Australia are lower than freight charges in Australia to places outside Australia, but not exceeding an amount calculated at the rate of ninety-two cents per tonne of the wheat of that season exported from the State of Western Australia to places outside Australia; and
- 15 (c) ascertaining the share in the remaining amount of each person entitled to payment under this section by apportioning that remaining amount amongst the persons who delivered wheat of that season to the Board in Australia (whether in pursuance of this Act or otherwise) on the basis of the quantity of wheat so delivered by each such person, with proper allowance for differences in the quality of wheat and for charges by the Board in respect of costs of the transport of wheat to terminal ports from places at which wheat has been delivered to the Board, corn sacks in which wheat was supplied to the Board, additional costs incurred by the Board in the handling and storage of wheat delivered to the Board in corn sacks and other necessary adjustments in particular cases.
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(3) The Board is not bound to make a final payment in respect of wheat of a season until it has disposed of the whole of the wheat of that season delivered to it in Australia (whether in pursuance of this Act or otherwise), but the

Board

Wheat Industry Stabilization.

Board may, with the approval of the Commonwealth Minister, make from time to time such advance payments as it considers justified.

5 (4) Subject to this section and to section 18, the net proceeds of the disposal of wheat of a season shall, for the purposes of this section, be deemed to be the net return from the disposal of that wheat (including corn sacks in which the wheat was sold) after deducting—

10 (a) any charge imposed by the Wheat Export Charge Act 1974 of the Parliament of the Commonwealth in relation to wheat of that season; and

15 (b) costs incurred by the Board, to the extent that they relate wholly to wheat of that season or are reasonably allocated by the Board to wheat of that season and will not be covered by charges referred to in subsection (2) (c).

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

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

25 (b) amounts paid by the Board in respect of expenses referred to in section 40 (3) of the Commonwealth Act shall be deemed to be costs referred to in subsection (4);

30 (c) there shall be taken into account such of the payments made or received by the Board in accordance with section 17 (3) of the Commonwealth Act as the Board considers may equitably be related to wheat of that season;

(d)

Wheat Industry Stabilization.

- 5 (d) no account shall be taken of moneys to which section 20 or a corresponding provision of the Commonwealth Act, or of an Act of another State, applies or of costs of the Board payable out of those moneys; and
- (e) there shall be taken into account payments made to the Board in accordance with section 18 (2) of the Commonwealth Act in relation to wheat of that season.
- 10 (6) The costs referred to in subsection (4) (b) include costs paid or reimbursed by the Board in connection with the administration of a law of a State relating to wheat quotas.
- 15 (7) The obligation of the Board under this section in respect of any wheat is subject to the operation of section 8 of the Wheat Tax Act 1957-1973 of the Parliament of the Commonwealth.

14. (1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, section 13 has effect as if references in that section to wheat of a season were references to wheat included in the pool for that season in accordance with this section. **Quota seasons.**

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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 delivered to the Board in the relevant season, or wheat of an earlier quota season delivered to the Board in the earlier quota season but not included in the pool for that season, or delivered to the Board in the relevant season, being in either case—

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- (a) wheat which 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 delivered under arrangements between the Australian Government and the Governments of the States relating to wheat quotas; and
- 35

(b)

Wheat Industry Stabilization.

- 5 (b) if, under the law of the State in which the wheat was delivered relating to wheat quotas, quotas have been allocated to individual persons in respect of the relevant season, wheat which 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,

and, for the purposes of this subsection, the Australian Capital Territory shall be deemed to be part of the State of New South
10 Wales and the Northern Territory shall be deemed to be part of such State as is prescribed by the regulations under the Commonwealth Act.

- (3) The pool for a quota season (in this subsection referred to as "the relevant season") consists of the following
15 wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (a) wheat which is quota wheat in relation to the relevant season;
- 20 (b) any other wheat of the relevant season delivered in the relevant season, or any wheat of an earlier quota season that was not included in a pool for an earlier 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
25 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—
- 30 (i) was delivered to the Board before the relevant season;
- (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
35 by the Board, and paid for in full, before or during the relevant season.

(4)

Wheat Industry Stabilization.

(4) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (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.

10 (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 delivered by particular persons.

15 15. (1) Subject to subsections (4) and (5) and to any other law to which the Board is subject, the amount payable ^{Payment} _{by Board.} under section 13 in respect of any wheat, or wheat and corn sacks, is payable to the person who would have been entitled to receive the price of the wheat if the wheat had been lawfully
20 sold to the Board at the time of the delivery of the wheat.

(2) The same rights (if any) exist against the person receiving an amount paid by the Board under section 13 in respect of wheat, or wheat and corn sacks, as would exist if the moneys so paid were the proceeds of a sale or purported
25 sale of the wheat, or wheat and corn sacks, by him, and any such rights may be enforced by action in any court that would have had jurisdiction if the moneys were the proceeds of such a sale or purported sale.

(3) Payment in good faith by the Board of any
30 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)

Wheat Industry Stabilization.

(4) Subject to subsection (5), an assignment of moneys payable by the Board in respect of wheat, or wheat and corn sacks, delivered to the Board (not including a registered crop lien) is void as against the Board.

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

16. (1) For the purposes of this section—

- (a) the final delivery day for the season that commenced on 1st October, 1973, is 30th September, 1974; and
15 (b) the final delivery day for a subsequent season is the day declared by the Commonwealth Minister, by notice published in the Australian Government Gazette under the Commonwealth Act, to be the final delivery day for that subsequent season.

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

20 (2) A person who delivers to a licensed receiver, after the final delivery day for a season, wheat harvested in that season, shall, at the time of delivery of the wheat, deliver to the licensed receiver a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

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PART III.

STABILIZATION PROVISIONS.

17. In this Part, "season to which this Part applies" means the season commencing on 1st October, 1974, or any of the next four succeeding seasons.

Seasons to
which Part
applies.

18.

Wheat Industry Stabilization.

18. For the purposes of section 13, the net proceeds of the disposal of wheat of a season to which this Part applies shall be deemed to include—

Payments
from Wheat
Prices
Stabilization
Fund.

- 5 (a) any amount paid to the Board in respect of that season in pursuance of section 30 (4) of the Commonwealth Act, out of the Wheat Prices Stabilization Fund referred to in section 30 of that Act; and
- 10 (b) any amount referred to in section 31 (4) of the Commonwealth Act received by the Board out of that Fund, and any amount of interest referred to in section 31 (4) of the Commonwealth Act, being an amount that the Board is required by section 31
- 15 (4) of the Commonwealth Act to apply as if it were part of the proceeds of the disposal by the Board of the wheat of that season delivered to the Board.

19. (1) The price at which, in the year commencing on 1st December, 1974, or any of the next four succeeding years, the Board shall, by a contract made in the State, sell wheat for use or consumption in Australia is the price that would be applicable under the Commonwealth Act if the contract were made in the Australian Capital Territory.

Home
consumption
price of
wheat.

(2) Notwithstanding the repeal of sections 20A and 20AA of the Wheat Industry Stabilization Act, 1968—

- 25 (a) the provisions of those sections continue to be applicable to sales made after the commencement of this Act and before 1st December, 1974; and
- (b) all moneys received by the Board in respect of such sales by reason of the operation of section 20AA (3) and (4) of that Act shall be deemed to be moneys to which section 20 (1) applies.
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20. (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

Special
account for
freight to
State of
Tasmania.

Wheat Industry Stabilization.

5 which section 19 (1) applies of an amount in respect of the costs of shipment of wheat by the Board to the State of Tasmania 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 the law of another State or States.

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

15 (4) Any moneys referred to in subsection (1) that remain unexpended after the Board has disposed of the whole of the wheat of the season ending on 30th September, 1979, delivered to the Board in Australia shall be applied by the Board for the benefit of the wheat industry in such manner
20 as the Commonwealth Minister, after consultation with the appropriate Minister of each State, directs.

(5) Any moneys that, immediately before the commencement of this Act, stood to the credit of the account kept by the Board for the purposes of section 21 of the Wheat
25 Industry Stabilization Act, 1968, shall be deemed to be moneys referred to in subsection (1).

(6) In relation to sales of wheat by the Board for shipment to the State of Tasmania in respect of which the Board bears the cost of shipment, the Board shall take such
30 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 contracts made by the Board provisions for that
35 purpose.

Wheat Industry Stabilization.

(7) Any moneys received by the Board in accordance with subsection (6) by way of recoupment of costs of shipment shall be used by the Board in meeting the costs of shipment of wheat by the Board to the State of Tasmania.

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PART IV.

MISCELLANEOUS.

21. Subject to the Board's paying, or making provision for the payment, of amounts required to be paid by it under this Act, nothing in this Act shall be deemed to prevent the
 10 Board from applying moneys received by it by reason of the exercise of its functions under this Act for the purposes of the Commonwealth Act or an Act of another State relating to the marketing of wheat.

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

(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
 20 time specified in the notice, such information relating to wheat of any season, wheaten flour, semolina, corn sacks, jute or jute products as is specified in the notice.

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

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

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

23.

Wheat Industry Stabilization.

23. 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.

24. (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

Access to premises.

10 (2) Where an authorized person, being a Commonwealth Police Officer or a member of the police force of the State, has reason to believe that—

15 (a) there is on any premises wheat of any season that is the property of the Board and is not in the possession of the Board or a person authorized by the Board, or wheat the delivery of which has been lawfully required by the Board under this Act; or

20 (b) there are on any premises books, documents or other papers relating to wheat of any season or to corn sacks,

the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

25 (3) If, on an application under subsection (2), the Justice of the Peace is satisfied by information on oath—

30 (a) that there is reasonable ground for believing that there is on the premises any wheat, or that there are on the premises any books, documents or papers, referred to in subsection (2); and

(b) that the issue of the warrant is reasonably required for purposes of, or related to the operation of, this Act,

the

Wheat Industry Stabilization.

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he 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,
5 if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4) A warrant under subsection (3) shall specify a date after which the warrant ceases to have effect.

(5) Where an authorized person has entered any
10 premises in pursuance of subsection (1) or in pursuance of a warrant granted under subsection (3), he may exercise the functions of an authorized person under this section.

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of
15 a warrant granted under subsection (3) or in pursuance of subsection (5).

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

- 20 (a) to search for and inspect wheat of any season or corn sacks;
- (b) to search for, inspect, take extracts from and make copies of books, documents or papers referred to in subsection (2); and
- 25 (c) to take possession of and remove wheat referred to in subsection (2) and corn sacks in which any such wheat is contained.

(8) Wheat of a season referred to in section 5, other than wheat that is the property of the Board, of which possession is taken in accordance with this section, and
30 any corn sacks in which the wheat is contained, shall, for the purposes of this Act, but without affecting the liability of a person for an offence, be deemed to be delivered to the Board under this Act.

(9)

Wheat Industry Stabilization.

(9) In this section—

“authorized person” means a person appointed by the Board or the Chairman of the Board to be an authorized person for the purposes of this section;

5 “occupier”, in relation to premises, includes the person in charge of the premises.

25. A notice, authority, communication or instrument ^{Notices} given or made by the Board shall be sufficiently authenticated ^{by Board.} if signed by the Chairman on behalf of the Board, and a notice,
10 authority, communication or instrument so signed shall, in the absence of proof to the contrary, be deemed to have been given or made with the authority of the Board.

26. A member of the Board is not personally liable for an ^{Indemnity.} act of the Board or of the member acting as such.

15 27. A person who contravenes or fails to comply with a ^{Offences.} provision of this Act for which no other penalty is provided is guilty of an offence punishable by a fine not exceeding \$200 or imprisonment for a term not exceeding six months.

20 28. The Governor may make regulations, not inconsistent ^{Regulations.} 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 \$200 or imprisonment for six months,
25 or both, for offences against the regulations.

PART

Wheat Industry Stabilization.

PART V.**AMENDMENTS, REPEALS AND SAVINGS PROVISIONS.**

29. The Grain Elevators Act, 1954, is amended—

Amend-
ment of
Act No. 36,
1954.

- 5** (a) by omitting the definition of "Australian Wheat Board" in section 3 and by inserting instead the following definition :—

Sec. 3.
(Defini-
tions.)

10 "Australian Wheat Board" means the Australian Wheat Board continued in existence by the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth.

- (b) by omitting from section 21 the figures "1968" and by inserting instead the figures "1974".

Sec. 21.
(Board
may make
charges.)

15 **30.** Each Act specified in Column 1 of the Schedule is, to the extent specified opposite that Act in Column 2 of the Schedule, repealed.

Repeals.

20 **31.** (1) Notwithstanding the repeals effected by section 30 but subject to subsection (2), any provisions of an Act that would, but for those repeals, have continued to apply to, or in relation to, wheat harvested before 1st October, 1974, continue so to apply, but this subsection does not prejudice the application to, or in relation to, any such wheat of a provision of this Act that is expressed to apply to, or in relation to, wheat of any season.

Savings
provisions.

25 (2) A reference in any of the provisions referred to in subsection (1) 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.

SCHEDULE.

Wheat Industry Stabilization.

SCHEDULE.

Sec. 30.

REPEALS.

Column 1		Column 2
Year and number of Act.	Short title of Act.	Extent of Repeal.
5 1968, No. 50..	Wheat Industry Stabilization Act, 1968.	The whole Act.
1969, No. 53..	Wheat Quotas Act, 1969.	Part II.
10 1969, No. 74..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1969.	Section 2.
1970, No. 66..	Wheat Quotas Act, 1970.	Part II.
1971, No. 76..	Wheat Quotas Act, 1971.	Section 34.
15 1973, No. 88..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1973.	The whole Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
[20c]

PROOF

WHEAT INDUSTRY STABILIZATION BILL, 1974

EXPLANATORY NOTE

THE object of this Bill is to continue the Wheat Industry Stabilization Scheme presently in force for a further seven seasons subject to the following modifications of that scheme:—

1. the definition of “wheat” has been extended to include products made from wheat; and
2. the concept of a “guaranteed price” in respect of export wheat has been omitted and a new concept of a “stabilization price” has been introduced, the stabilization price applicable from season to season being calculated in accordance with a formula specified in the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth.

The Bill also repeals the Wheat Industry Stabilization Act, 1968, and certain provisions of other Acts, and makes consequential amendments to the Grain Elevators Act, 1954.

PROOF

No. , 1974.

A BILL

To make certain provisions in relation to the marketing of wheat and the stabilization of the wheat industry; to repeal the Wheat Industry Stabilization Act, 1968; to amend the Grain Elevators Act, 1954, and certain other Acts; and for purposes connected therewith.

[MR CRAWFORD—26 November, 1974.]

BE

Wheat Industry Stabilization.

5 **B**E 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.

1. This Act may be cited as the "Wheat Industry Short
Stabilization Act, 1974". title.

10 2. This Act shall be deemed to have commenced on 1st Commence-
October, 1974. ment.

3. This Act is divided as follows :—

Division
into Parts.

PART I.—PRELIMINARY—ss. 1–6.

PART II.—MARKETING OF WHEAT—ss. 7–16.

15 PART III.—STABILIZATION PROVISIONS—ss. 17–20.

PART IV.—MISCELLANEOUS—ss. 21–28.

PART V.—AMENDMENTS, REPEALS AND SAVINGS
PROVISIONS—ss. 29–31.

SCHEDULE.

20 4. In this Act, unless the context or subject-matter Interpreta-
otherwise indicates or requires— tion.

25 "appropriate Minister", in relation to a State, means a
Minister of State of the State administering the
Department of the State dealing with agricultural
matters, and includes a Minister of State of that
State acting on behalf of that Minister;

"Board"

Wheat Industry Stabilization.

- “Board” means the Australian Wheat Board continued in existence by the Commonwealth Act ;
- 5 “Commonwealth Act” means the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth as that Act is amended from time to time ;
- 10 “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 ;
- 15 “licensed receiver” means a person, firm, company or State authority licensed by the Board to receive wheat on behalf of the Board ;
- 20 “quota season” means a season declared by, or by proclamation under, the Commonwealth Act to be a quota season ;
- “season”, in relation to wheat, means the period of twelve months commencing on 1st October during which the wheat was harvested ;
- “wheat” means wheat of a season referred to in section 5 ;
- 25 “wheat products” means a substance (other than bran or pollard) produced by the gristing, crushing, grinding, milling or other processing of wheat, and includes any of the following products made from wheat :—
- 30 (a) flour, semolina, sharps, wheatmeal, starch, gluten, rice substitutes and breakfast foods ; and
- (b) any other commodity produced mainly from other wheat products or from wheat.

Wheat Industry Stabilization.

5. Except as otherwise provided by this Act, this Act applies in relation to the season commencing on 1st October, 1974, and each of the next six succeeding seasons.

Seasons to which Act applies.

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 thereof 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.

Act to apply subject to Constitution.

(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.

PART II.

MARKETING OF WHEAT.

7. (1) The Board may—

Powers of Board.

- (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) grist or arrange for the gristing of wheat and sell or otherwise dispose of the products of the gristing;

(e)

Wheat Industry Stabilization.

- (e) manage and control all matters connected with, or arising out of, the handling, storage, protection, treatment, transfer, shipment or sale of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board; and
- (f) do all things that the Board is required or permitted by this Act to do or that are 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 in such manner as will, in its judgment, attribute sales to wheat of different seasons in an equitable manner, and sales so attributed to wheat of a season shall be deemed to relate to wheat of that season.

(3) The exercise by the Board of the power conferred upon it by subsection (1) (e) 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.

8. 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.

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

Licensed
receivers.

(2) The Grain Elevators Board is entitled to a licence under this section.

(3)

Wheat Industry Stabilization.

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

5 (4) As from a day to be appointed by the Governor and notified by proclamation published in the Gazette—

(a) all licences granted or deemed to have been granted under this section (other than the licence granted to the Grain Elevators Board) and in force in the
10 State shall be deemed to be cancelled; and

(b) all wheat to be delivered to the Board in the State shall be delivered to the Grain Elevators Board as the sole licensed receiver of wheat on behalf of the Board in the State.

15 (5) The remuneration payable to the Grain Elevators Board as a licensed receiver shall be as agreed between the Minister and the Commonwealth 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.

20 (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

25 (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—

30 (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)

Wheat Industry Stabilization.

- (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.

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

10 (4) A notice under this section 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 that has been sold by the Board; or
- 15 (c) wheat that has been sold or delivered to a person with the approval of the Board.

(5) A person shall not—

- (a) without reasonable excuse, refuse or fail to deliver any wheat to the Board as required by a notice under subsection (2); or
- 20 (b) deliver to the Board wheat that has previously been sold by the Board.

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

(6) For the purposes of this section and of notices under this section, where a person has possession of wheat immediately upon its harvesting, that wheat shall be deemed
30 to have come into the possession of that person at the time of its harvesting.

Wheat Industry Stabilization.

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

5 (2) A licensed 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 a law of the State providing for the fixing
10 of wheat quotas.

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

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

12. (1) Except as provided in sections 10 and 11, or with the consent in writing of the Board, a person shall not—
Unauth-
orized
dealings
with wheat.

(a) sell, deliver or part with the possession of, or take into his possession, or grist or otherwise process
25 (otherwise than for the purpose of the use of the produce of the gristing or processing on the farm where the wheat was grown), or mix with any other grain or substance, wheat of any season other than wheat specified in section 10 (4) (b) or (c);

30 (b) move, or cause or permit to be moved, from the farm where the wheat was grown—

- (i) wheat of any season, other than wheat specified in section 10 (4) (b) or (c); or
- (ii) wheat products produced from such wheat;

(c)

Wheat Industry Stabilization.

- (c) part with the possession of, or take into his possession, wheat of any season that is the property of the Board; or
- 5 (d) purport to sell or offer for sale, or purport to purchase or offer to purchase otherwise than from the Board, wheat of any season that is the property of the Board.

Penalty : An amount calculated, in respect of the 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 six months, or both.

(2) For the purposes of this section—

- 15 (a) the wheat equivalent of any wheat products is the quantity of wheat used in, or used in the production of the materials used in, the wheat products;
- 20 (b) a certificate of the Board specifying the wheat equivalent of a particular quantity of a particular kind of wheat products or the wheat equivalent of particular wheat products is prima facie evidence of the facts stated in the certificate; and
- (c) a person shall not be taken to part with the possession of wheat by reason only of the fact that he uses the wheat on the farm where it was grown.

25 **13.** (1) Where wheat is delivered to the Board in pursuance of section 10, the Board shall pay for that wheat (including the corn sacks, if any, in which the wheat is delivered) an amount determined by the Board in accordance with this section.

Price to be paid for wheat.

(2)

Wheat Industry Stabilization.

(2) The Board shall determine amounts payable under subsection (1) in respect of wheat of a season by—

- 5 (a) ascertaining the net proceeds of the disposal by the Board of all wheat of that season delivered to the Board in Australia (whether in pursuance of this Act or otherwise);
- 10 (b) deducting from the amount so ascertained an amount determined by the Board having regard to the extent to which freight charges in respect of the export of wheat of that season from the State of Western Australia to places outside Australia are lower than freight charges in Australia to places outside Australia, but not exceeding an amount
- 15 calculated at the rate of ninety-two cents per tonne of the wheat of that season exported from the State of Western Australia to places outside Australia; and
- 20 (c) ascertaining the share in the remaining amount of each person entitled to payment under this section by apportioning that remaining amount amongst the persons who delivered wheat of that season to the Board in Australia (whether in pursuance of this Act or otherwise) on the basis of the quantity
- 25 of wheat so delivered by each such person, with proper allowance for differences in the quality of wheat and for charges by the Board in respect of costs of the transport of wheat to terminal ports from places at which wheat has been delivered to the Board, corn sacks in which wheat was supplied
- 30 to the Board, additional costs incurred by the Board in the handling and storage of wheat delivered to the Board in corn sacks and other necessary adjustments in particular cases.

(3) The Board is not bound to make a final payment 35 in respect of wheat of a season until it has disposed of the whole of the wheat of that season delivered to it in Australia (whether in pursuance of this Act or otherwise), but the

Board

Wheat Industry Stabilization.

Board may, with the approval of the Commonwealth Minister, make from time to time such advance payments as it considers justified.

5 (4) Subject to this section and to section 18, the net proceeds of the disposal of wheat of a season shall, for the purposes of this section, be deemed to be the net return from the disposal of that wheat (including corn sacks in which the wheat was sold) after deducting—

10 (a) any charge imposed by the Wheat Export Charge Act 1974 of the Parliament of the Commonwealth in relation to wheat of that season; and

15 (b) costs incurred by the Board, to the extent that they relate wholly to wheat of that season or are reasonably allocated by the Board to wheat of that season and will not be covered by charges referred to in subsection (2) (c).

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

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

25 (b) amounts paid by the Board in respect of expenses referred to in section 40 (3) of the Commonwealth Act shall be deemed to be costs referred to in subsection (4);

30 (c) there shall be taken into account such of the payments made or received by the Board in accordance with section 17 (3) of the Commonwealth Act as the Board considers may equitably be related to wheat of that season;

(d)

Wheat Industry Stabilization.

- (d) no account shall be taken of moneys to which section 20 or a corresponding provision of the Commonwealth Act, or of an Act of another State, applies or of costs of the Board payable out of those moneys; and
- 5 (e) there shall be taken into account payments made to the Board in accordance with section 18 (2) of the Commonwealth Act in relation to wheat of that season.
- 10 (6) The costs referred to in subsection (4) (b) include costs paid or reimbursed by the Board in connection with the administration of a law of a State relating to wheat quotas.
- (7) The obligation of the Board under this section
- 15 in respect of any wheat is subject to the operation of section 8 of the Wheat Tax Act 1957-1973 of the Parliament of the Commonwealth.
14. (1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, ^{Quota seasons.}
- 20 section 13 has effect as if references in that section to wheat of a season were references to wheat included in the pool for that season in accordance with this section.
- (2) For the purposes of this section, "quota wheat", in relation to a quota season (in this subsection referred to
- 25 as "the relevant season") means wheat of the relevant season delivered to the Board in the relevant season, or wheat of an earlier quota season delivered to the Board in the earlier quota season but not included in the pool for that season, or delivered to the Board in the relevant season, being in either
- 30 case—
- (a) wheat which 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 delivered under arrangements between the Australian Government and the Governments of the
- 35 States relating to wheat quotas; and
- (b)

Wheat Industry Stabilization.

- 5 (b) if, under the law of the State in which the wheat was delivered relating to wheat quotas, quotas have been allocated to individual persons in respect of the relevant season, wheat which 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,

and, for the purposes of this subsection, the Australian Capital Territory shall be deemed to be part of the State of New South
10 Wales and the Northern Territory shall be deemed to be part of such State as is prescribed by the regulations under the Commonwealth Act.

- (3) The pool for a quota season (in this subsection referred to as "the relevant season") consists of the following
15 wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (a) wheat which is quota wheat in relation to the relevant season ;
- 20 (b) any other wheat of the relevant season delivered in the relevant season, or any wheat of an earlier quota season that was not included in a pool for an earlier 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
25 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—
- 30 (i) was delivered to the Board before the relevant season ;
- (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
35 by the Board, and paid for in full, before or during the relevant season.

Wheat Industry Stabilization.

(4) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (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 delivered by particular persons.

15 15. (1) Subject to subsections (4) and (5) and to any other law to which the Board is subject, the amount payable under section 13 in respect of any wheat, or wheat and corn sacks, is payable to the person who would have been entitled to receive the price of the wheat if the wheat had been lawfully sold to the Board at the time of the delivery of the wheat.

(2) The same rights (if any) exist against the person receiving an amount paid by the Board under section 13 in respect of wheat, or wheat and corn sacks, as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat, or wheat and corn sacks, by him, and any such rights may be enforced by action in any court that would have had jurisdiction if the moneys were the proceeds of such a sale or purported sale.

(3) Payment in good faith by the Board of any moneys payable under this Act to the person appearing to the Board to be entitled to receive them discharges the Board from any further liability in respect of those moneys.

(4)

Wheat Industry Stabilization.

(4) Subject to subsection (5), an assignment of moneys payable by the Board in respect of wheat, or wheat and corn sacks, delivered to the Board (not including a registered crop lien) is void as against the Board.

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

16. (1) For the purposes of this section—

(a) the final delivery day for the season that commenced on 1st October, 1973, is 30th September, 1974; and

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

15 (b) the final delivery day for a subsequent season is the day declared by the Commonwealth Minister, by notice published in the Australian Government Gazette under the Commonwealth Act, to be the final delivery day for that subsequent season.

20 (2) A person who delivers to a licensed receiver, after the final delivery day for a season, wheat harvested in that season, shall, at the time of delivery of the wheat, deliver to the licensed receiver a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

25

PART III.

STABILIZATION PROVISIONS.

17. In this Part, "season to which this Part applies" means the season commencing on 1st October, 1974, or any of the next four succeeding seasons.

Seasons to
which Part
applies.

18.

Wheat Industry Stabilization.

18. For the purposes of section 13, the net proceeds of the disposal of wheat of a season to which this Part applies shall be deemed to include—

Payments
from Wheat
Prices
Stabilization
Fund.

- 5 (a) any amount paid to the Board in respect of that season in pursuance of section 30 (4) of the Commonwealth Act, out of the Wheat Prices Stabilization Fund referred to in section 30 of that Act; and
- 10 (b) any amount referred to in section 31 (4) of the Commonwealth Act received by the Board out of that Fund, and any amount of interest referred to in section 31 (4) of the Commonwealth Act, being an amount that the Board is required by section 31 (4) of the Commonwealth Act to apply as if it were
- 15 part of the proceeds of the disposal by the Board of the wheat of that season delivered to the Board.

19. (1) The price at which, in the year commencing on 1st December, 1974, or any of the next four succeeding years, the Board shall, by a contract made in the State, sell wheat for use or consumption in Australia is the price that would be applicable under the Commonwealth Act if the contract were made in the Australian Capital Territory.

Home
consumption
price of
wheat.

(2) Notwithstanding the repeal of sections 20A and 20AA of the Wheat Industry Stabilization Act, 1968—

- 25 (a) the provisions of those sections continue to be applicable to sales made after the commencement of this Act and before 1st December, 1974; and
- (b) all moneys received by the Board in respect of such sales by reason of the operation of section 20AA (3) and (4) of that Act shall be deemed
- 30 to be moneys to which section 20 (1) applies.

20. (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

Special
account for
freight to
State of
Tasmania.

Wheat Industry Stabilization.

5 which section 19 (1) applies of an amount in respect of the costs of shipment of wheat by the Board to the State of Tasmania 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 the law of another State or States.

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

15 (4) Any moneys referred to in subsection (1) that remain unexpended after the Board has disposed of the whole of the wheat of the season ending on 30th September, 1979, delivered to the Board in Australia shall be applied by the Board for the benefit of the wheat industry in such manner
20 as the Commonwealth Minister, after consultation with the appropriate Minister of each State, directs.

(5) Any moneys that, immediately before the commencement of this Act, stood to the credit of the account kept by the Board for the purposes of section 21 of the Wheat
25 Industry Stabilization Act, 1968, shall be deemed to be moneys referred to in subsection (1).

(6) In relation to sales of wheat by the Board for shipment to the State of Tasmania in respect of which the Board bears the cost of shipment, the Board shall take such
30 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 contracts made by the Board provisions for that
35 purpose.

Wheat Industry Stabilization.

(7) Any moneys received by the Board in accordance with subsection (6) by way of recoupment of costs of shipment shall be used by the Board in meeting the costs of shipment of wheat by the Board to the State of Tasmania.

5

PART IV.

MISCELLANEOUS.

21. Subject to the Board's paying, or making provision for the payment, of amounts required to be paid by it under this Act, nothing in this Act shall be deemed to prevent the Board from applying moneys received by it by reason of the exercise of its functions under this Act for the purposes of the Commonwealth Act or an Act of another State relating to the marketing of wheat.

Use of funds by Board.

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

Board may require returns.

(a) personally; or

(b) by post at his last-known place of abode or business,

20 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—

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

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

23.

Wheat Industry Stabilization.

23. 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.

24. (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

Access to premises.

10 (2) Where an authorized person, being a Commonwealth Police Officer or a member of the police force of the State, has reason to believe that—

15 (a) there is on any premises wheat of any season that is the property of the Board and is not in the possession of the Board or a person authorized by the Board, or wheat the delivery of which has been lawfully required by the Board under this Act; or

20 (b) there are on any premises books, documents or other papers relating to wheat of any season or to corn sacks,

the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

25 (3) If, on an application under subsection (2), the Justice of the Peace is satisfied by information on oath—

30 (a) that there is reasonable ground for believing that there is on the premises any wheat, or that there are on the premises any books, documents or papers, referred to in subsection (2); and

(b) that the issue of the warrant is reasonably required for purposes of, or related to the operation of, this Act,

the

Wheat Industry Stabilization.

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he 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,
 5 if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4) A warrant under subsection (3) shall specify a date after which the warrant ceases to have effect.

(5) Where an authorized person has entered any
 10 premises in pursuance of subsection (1) or in pursuance of a warrant granted under subsection (3), he may exercise the functions of an authorized person under this section.

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of
 15 a warrant granted under subsection (3) or in pursuance of subsection (5).

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

- 20 (a) to search for and inspect wheat of any season or corn sacks;
- (b) to search for, inspect, take extracts from and make copies of books, documents or papers referred to in subsection (2); and
- 25 (c) to take possession of and remove wheat referred to in subsection (2) and corn sacks in which any such wheat is contained.

(8) Wheat of a season referred to in section 5, other than wheat that is the property of the Board, of which possession is taken in accordance with this section, and
 30 any corn sacks in which the wheat is contained, shall, for the purposes of this Act, but without affecting the liability of a person for an offence, be deemed to be delivered to the Board under this Act.

(9)

Wheat Industry Stabilization.

(9) In this section—

“authorized person” means a person appointed by the Board or the Chairman of the Board to be an authorized person for the purposes of this section;

5 “occupier”, in relation to premises, includes the person in charge of the premises.

25 **25.** A notice, authority, communication or instrument given or made by the Board shall be sufficiently authenticated if signed by the Chairman on behalf of the Board, and a notice,
10 authority, communication or instrument so signed shall, in the absense of proof to the contrary, be deemed to have been given or made with the authority of the Board.

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

15 **27.** 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 \$200 or imprisonment for a term not exceeding six months.

28. The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are
20 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 \$200 or imprisonment for six months,
25 or both, for offences against the regulations.

PART

Wheat Industry Stabilization.

PART V.**AMENDMENTS, REPEALS AND SAVINGS PROVISIONS.**

29. The Grain Elevators Act, 1954, is amended—

Amend-
ment of
Act No. 36,
1954.

- 5 (a) by omitting the definition of "Australian Wheat Board" in section 3 and by inserting instead the following definition :—

Sec. 3.
(Defini-
tions.)

10 "Australian Wheat Board" means the Australian Wheat Board continued in existence by the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth.

- (b) by omitting from section twenty-one the figures "1968" and by inserting instead the figures "1974".

Sec. 21.
(Board
may make
charges.)

30. Each Act specified in Column 1 of the Schedule is, to the extent specified opposite that Act in Column 2 of the
15 Schedule, repealed.

Repeals.

31. (1) Notwithstanding the repeals effected by section 30 but subject to subsection (2), any provisions of an Act that would, but for those repeals, have continued to apply to, or in relation to, wheat harvested before 1st October, 1974,
20 continue so to apply, but this subsection does not prejudice the application to, or in relation to, any such wheat of a provision of this Act that is expressed to apply to, or in relation to, wheat of any season.

Savings
provisions.

(2) A reference in any of the provisions referred to in
25 subsection (1) 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.

SCHEDULE,

Wheat Industry Stabilization.

SCHEDULE.

Sec. 30.

REPEALS.

Column 1		Column 2
5	Year and number of Act.	Short title of Act.
		Extent of Repeal.
	1968, No. 50..	Wheat Industry Stabilization Act, 1968.
	1969, No. 53..	Wheat Quotas Act, 1969.
10	1969, No. 74..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1969.
	1970, No. 66..	Wheat Quotas Act, 1970.
	1971, No. 76..	Wheat Quotas Act, 1971.
15	1973, No. 88..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1973.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

It is hereby certified that

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 3 December, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 108, 1974.

An Act to make certain provisions in relation to the marketing of wheat and the stabilization of the wheat industry; to repeal the Wheat Industry Stabilization Act, 1968; to amend the Grain Elevators Act, 1954, and certain other Acts, and for purposes connected therewith.
[Assented to, 13th December, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Wheat Industry Stabilization.

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 Industry Stabilization Act, 1974".

Commence-
ment.

2. This Act shall be deemed to have commenced on 1st October, 1974.

Division
into Parts.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—MARKETING OF WHEAT—ss. 7–16.

PART III.—STABILIZATION PROVISIONS—ss. 17–20.

PART IV.—MISCELLANEOUS—ss. 21–28.

PART V.—AMENDMENTS, REPEALS AND SAVINGS PROVISIONS—ss. 29–31.

SCHEDULE.

Interpreta-
tion.

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

"appropriate Minister", in relation to a State, means a Minister of State of the State administering the Department of the State dealing with agricultural matters, and includes a Minister of State of that State acting on behalf of that Minister;

"Board"

Wheat Industry Stabilization.

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

“Commonwealth Act” means the Wheat Industry Stabilization Act 1974 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;

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

“quota season” means a season declared by, or by proclamation under, the Commonwealth Act to be a quota season;

“season”, in relation to wheat, means the period of twelve months commencing on 1st October during which the wheat was harvested;

“wheat” means wheat of a season referred to in section 5;

“wheat products” means a substance (other than bran or pollard) produced by the gristing, crushing, grinding, milling or other processing of wheat, and includes any of the following products made from wheat :—

- (a) flour, semolina, sharps, wheatmeal, starch, gluten, rice substitutes and breakfast foods; and
- (b) any other commodity produced mainly from other wheat products or from wheat.

Wheat Industry Stabilization.

Seasons to
which Act
applies.

5. Except as otherwise provided by this Act, this Act applies in relation to the season commencing on 1st October, 1974, and each of the next six succeeding seasons.

Act to
apply
subject to
Constitution.

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 thereof 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.

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) grist or arrange for the gristing of wheat and sell or otherwise dispose of the products of the gristing;

(e)

Wheat Industry Stabilization.

- (e) manage and control all matters connected with, or arising out of, the handling, storage, protection, treatment, transfer, shipment or sale of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board; and
- (f) do all things that the Board is required or permitted by this Act to do or that are 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 in such manner as will, in its judgment, attribute sales to wheat of different seasons in an equitable manner, and sales so attributed to wheat of a season shall be deemed to relate to wheat of that season.

(3) The exercise by the Board of the power conferred upon it by subsection (1) (e) 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.

8. 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.

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

(2) The Grain Elevators Board is entitled to a licence under this section.

(3)

Wheat Industry Stabilization.

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

(4) As from a day to be appointed by the Governor and notified by proclamation published in the Gazette—

- (a) all licences granted or deemed to have been granted under this section (other than the licence granted to the Grain Elevators Board) and in force in the State shall be deemed to be cancelled; and
- (b) all wheat to be delivered to the Board in the State shall be delivered to the Grain Elevators Board as the sole licensed receiver of wheat on behalf of the Board in the State.

(5) The remuneration payable to the Grain Elevators Board as a licensed receiver shall be as agreed between the Minister and the Commonwealth Minister.

**Delivery
of wheat.**

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

(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)

Wheat Industry Stabilization.

- (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 (including any corn sacks in which the wheat is contained) becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests and trusts.

(4) A notice under this section 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 that has been sold by the Board; or
- (c) wheat that has been sold or delivered to a person with the approval of the Board.

(5) A person shall not—

- (a) without reasonable excuse, refuse or fail to deliver any wheat to the Board as required by a notice under subsection (2); or
- (b) deliver to the Board wheat that has previously been sold by the Board.

Penalty : 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 six months, or both.

(6) For the purposes of this section and of notices under this section, where a person has possession of wheat immediately upon its harvesting, that wheat shall be deemed to have come into the possession of that person at the time of its harvesting.

Wheat Industry Stabilization.

Delivery to
licensed
receiver.

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

(2) A licensed 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 a law of the State providing for the fixing of wheat quotas.

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

(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.

Unauth-
orized
dealings
with wheat.

12. (1) Except as provided in sections 10 and 11, or with the consent in writing of the Board, a person shall not—

(a) sell, deliver or part with the possession of, or take into his possession, or grist or otherwise process (otherwise than for the purpose of the use of the produce of the gristing or processing on the farm where the wheat was grown), or mix with any other grain or substance, wheat of any season other than wheat specified in section 10 (4) (b) or (c) ;

(b) move, or cause or permit to be moved, from the farm where the wheat was grown—

(i) wheat of any season, other than wheat specified in section 10 (4) (b) or (c) ; or

(ii) wheat products produced from such wheat;

(c)

Wheat Industry Stabilization.

- (c) part with the possession of, or take into his possession, wheat of any season that is the property of the Board; or
- (d) purport to sell or offer for sale, or purport to purchase or offer to purchase otherwise than from the Board, wheat of any season that is the property of the Board.

Penalty : An amount calculated, in respect of the 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 six months, or both.

(2) For the purposes of this section—

- (a) the wheat equivalent of any wheat products is the quantity of wheat used in, or used in the production of the materials used in, the wheat products;
- (b) a certificate of the Board specifying the wheat equivalent of a particular quantity of a particular kind of wheat products or the wheat equivalent of particular wheat products is prima facie evidence of the facts stated in the certificate; and
- (c) a person shall not be taken to part with the possession of wheat by reason only of the fact that he uses the wheat on the farm where it was grown.

13. (1) Where wheat is delivered to the Board in pursuance of section 10, the Board shall pay for that wheat (including the corn sacks, if any, in which the wheat is delivered) an amount determined by the Board in accordance with this section. Price to be paid for wheat.

(2)

Wheat Industry Stabilization.

(2) The Board shall determine amounts payable under subsection (1) in respect of wheat of a season by—

- (a) ascertaining the net proceeds of the disposal by the Board of all wheat of that season delivered to the Board in Australia (whether in pursuance of this Act or otherwise);
- (b) deducting from the amount so ascertained an amount determined by the Board having regard to the extent to which freight charges in respect of the export of wheat of that season from the State of Western Australia to places outside Australia are lower than freight charges in Australia to places outside Australia, but not exceeding an amount calculated at the rate of ninety-two cents per tonne of the wheat of that season exported from the State of Western Australia to places outside Australia; and
- (c) ascertaining the share in the remaining amount of each person entitled to payment under this section by apportioning that remaining amount amongst the persons who delivered wheat of that season to the Board in Australia (whether in pursuance of this Act or otherwise) on the basis of the quantity of wheat so delivered by each such person, with proper allowance for differences in the quality of wheat and for charges by the Board in respect of costs of the transport of wheat to terminal ports from places at which wheat has been delivered to the Board, corn sacks in which wheat was supplied to the Board, additional costs incurred by the Board in the handling and storage of wheat delivered to the Board in corn sacks and other necessary adjustments in particular cases.

(3) The Board is not bound to make a final payment in respect of wheat of a season until it has disposed of the whole of the wheat of that season delivered to it in Australia (whether in pursuance of this Act or otherwise), but the

Board

Wheat Industry Stabilization.

Board may, with the approval of the Commonwealth Minister, make from time to time such advance payments as it considers justified.

(4) Subject to this section and to section 18, the net proceeds of the disposal of wheat of a season shall, for the purposes of this section, be deemed to be the net return from the disposal of that wheat (including corn sacks in which the wheat was sold) after deducting—

- (a) any charge imposed by the Wheat Export Charge Act 1974 of the Parliament of the Commonwealth in relation to wheat of that season; and
- (b) costs incurred by the Board, to the extent that they relate wholly to wheat of that season or are reasonably allocated by the Board to wheat of that season and will not be covered by charges referred to in subsection (2) (c).

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

- (a) moneys received by the Board under a policy of insurance in respect of wheat of that season, or in respect of a transaction in relation to any such wheat, shall be deemed to be a return from the disposal of that wheat;
- (b) amounts paid by the Board in respect of expenses referred to in section 40 (3) of the Commonwealth Act shall be deemed to be costs referred to in subsection (4);
- (c) there shall be taken into account such of the payments made or received by the Board in accordance with section 17 (3) of the Commonwealth Act as the Board considers may equitably be related to wheat of that season;

(d)

Wheat Industry Stabilization.

- (d) no account shall be taken of moneys to which section 20 or a corresponding provision of the Commonwealth Act, or of an Act of another State, applies or of costs of the Board payable out of those moneys; and
- (e) there shall be taken into account payments made to the Board in accordance with section 18 (2) of the Commonwealth Act in relation to wheat of that season.

(6) The costs referred to in subsection (4) (b) include costs paid or reimbursed by the Board in connection with the administration of a law of a State relating to wheat quotas.

(7) The obligation of the Board under this section in respect of any wheat is subject to the operation of section 8 of the Wheat Tax Act 1957-1973 of the Parliament of the Commonwealth.

Quota
seasons.

14. (1) In relation to a quota season, or a season that is not a quota season but immediately follows a quota season, section 13 has effect as if references in that section to wheat of a season were references to wheat included in the pool for that season in accordance with this section.

(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 delivered to the Board in the relevant season, or wheat of an earlier quota season delivered to the Board in the earlier quota season but not included in the pool for that season, or delivered to the Board in the relevant season, being in either case—

- (a) wheat which 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 delivered under arrangements between the Australian Government and the Governments of the States relating to wheat quotas; and

(b)

Wheat Industry Stabilization.

- (b) if, under the law of the State in which the wheat was delivered relating to wheat quotas, quotas have been allocated to individual persons in respect of the relevant season, wheat which 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,

and, for the purposes of this subsection, the Australian Capital Territory shall be deemed to be part of the State of New South Wales and the Northern Territory shall be deemed to be part of such State as is prescribed by the regulations under the Commonwealth Act.

(3) The pool for a quota season (in this subsection referred to as "the relevant season") consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (a) wheat which is quota wheat in relation to the relevant season;
- (b) any other wheat of the relevant season delivered in the relevant season, or any wheat of an earlier quota season that was not included in a pool for an earlier 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 delivered to the Board before the relevant season;
 - (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)

Wheat Industry Stabilization.

(4) The pool for a season that is not a quota season but immediately follows a quota season consists of the following wheat delivered to the Board (whether in pursuance of this Act or of a law of the Commonwealth or of another State) :—

- (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 delivered by particular persons.

Payment
by Board.

15. (1) Subject to subsections (4) and (5) and to any other law to which the Board is subject, the amount payable under section 13 in respect of any wheat, or wheat and corn sacks, is payable to the person who would have been entitled to receive the price of the wheat if the wheat had been lawfully sold to the Board at the time of the delivery of the wheat.

(2) The same rights (if any) exist against the person receiving an amount paid by the Board under section 13 in respect of wheat, or wheat and corn sacks, as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat, or wheat and corn sacks, by him, and any such rights may be enforced by action in any court that would have had jurisdiction if the moneys were the proceeds of such a sale or purported sale.

(3) Payment in good faith by the Board of any moneys payable under this Act to the person appearing to the Board to be entitled to receive them discharges the Board from any further liability in respect of those moneys.

(4)

Wheat Industry Stabilization.

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

16. (1) For the purposes of this section—

- (a) the final delivery day for the season that commenced on 1st October, 1973, is 30th September, 1974; and
- (b) the final delivery day for a subsequent season is the day declared by the Commonwealth Minister, by notice published in the Australian Government Gazette under the Commonwealth Act, to be the final delivery day for that subsequent season.

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

(2) A person who delivers to a licensed receiver, after the final delivery day for a season, wheat harvested in that season, shall, at the time of delivery of the wheat, deliver to the licensed receiver a declaration in writing signed by him correctly stating the season during which the wheat was harvested.

PART III.

STABILIZATION PROVISIONS.

17. In this Part, "season to which this Part applies" means the season commencing on 1st October, 1974, or any of the next four succeeding seasons.

Seasons to
which Part
applies.

18.

Wheat Industry Stabilization.

Payments
from Wheat
Prices
Stabilization
Fund.

18. For the purposes of section 13, the net proceeds of the disposal of wheat of a season to which this Part applies shall be deemed to include—

- (a) any amount paid to the Board in respect of that season in pursuance of section 30 (4) of the Commonwealth Act, out of the Wheat Prices Stabilization Fund referred to in section 30 of that Act; and
- (b) any amount referred to in section 31 (4) of the Commonwealth Act received by the Board out of that Fund, and any amount of interest referred to in section 31 (4) of the Commonwealth Act, being an amount that the Board is required by section 31 (4) of the Commonwealth Act to apply as if it were part of the proceeds of the disposal by the Board of the wheat of that season delivered to the Board.

Home
consumption
price of
wheat.

19. (1) The price at which, in the year commencing on 1st December, 1974, or any of the next four succeeding years, the Board shall, by a contract made in the State, sell wheat for use or consumption in Australia is the price that would be applicable under the Commonwealth Act if the contract were made in the Australian Capital Territory.

(2) Notwithstanding the repeal of sections 20A and 20AA of the Wheat Industry Stabilization Act, 1968—

- (a) the provisions of those sections continue to be applicable to sales made after the commencement of this Act and before 1st December, 1974; and
- (b) all moneys received by the Board in respect of such sales by reason of the operation of section 20AA (3) and (4) of that Act shall be deemed to be moneys to which section 20 (1) applies.

Special
account for
freight to
State of
Tasmania.

20. (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

Wheat Industry Stabilization.

which section 19 (1) applies of an amount in respect of the costs of shipment of wheat by the Board to the State of Tasmania 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 the law of another State or States.

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

(4) Any moneys referred to in subsection (1) that remain unexpended after the Board has disposed of the whole of the wheat of the season ending on 30th September, 1979, delivered to the Board in Australia 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 that, immediately before the commencement of this Act, stood to the credit of the account kept by the Board for the purposes of section 21 of the Wheat Industry Stabilization Act, 1968, shall be deemed to be moneys referred to in subsection (1).

(6) In relation to sales of wheat by the Board for shipment to the State of 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 contracts made by the Board provisions for that purpose.

(7)

Wheat Industry Stabilization.

(7) Any moneys received by the Board in accordance with subsection (6) by way of recoupment of costs of shipment shall be used by the Board in meeting the costs of shipment of wheat by the Board to the State of Tasmania.

PART IV.

MISCELLANEOUS.

Use of
funds by
Board.

21. Subject to the Board's paying, or making provision for the payment, of amounts required to be paid by it under this Act, nothing in this Act shall be deemed to prevent the Board from applying moneys received by it by reason of the exercise of its functions under this Act for the purposes of the Commonwealth Act or an Act of another State relating to the marketing of wheat.

Board may
require
returns.

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

(a) personally; or

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

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

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

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

23.

Wheat Industry Stabilization.

23. 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.

24. (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

Access to
premises.

(2) Where an authorized person, being a Commonwealth Police Officer or a member of the police force of the State, has reason to believe that—

- (a) there is on any premises wheat of any season that is the property of the Board and is not in the possession of the Board or a person authorized by the Board, or wheat the delivery of which has been lawfully required by the Board under this Act; or
- (b) there are on any premises books, documents or other papers relating to wheat of any season or to corn sacks,

the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

(3) If, on an application under subsection (2), the Justice of the Peace is satisfied by information on oath—

- (a) that there is reasonable ground for believing that there is on the premises any wheat, or that there are on the premises any books, documents or papers, referred to in subsection (2); and
- (b) that the issue of the warrant is reasonably required for purposes of, or related to the operation of, this Act,

the

Wheat Industry Stabilization.

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he 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 the functions of an authorized person under this section.

(4) A warrant under subsection (3) shall specify a date after which the warrant ceases to have effect.

(5) Where an authorized person has entered any premises in pursuance of subsection (1) or in pursuance of a warrant granted under subsection (3), he may exercise the functions of an authorized person under this section.

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of a warrant granted under subsection (3) or in pursuance of subsection (5).

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

- (a) to search for and inspect wheat of any season or corn sacks;
- (b) to search for, inspect, take extracts from and make copies of books, documents or papers referred to in subsection (2); and
- (c) to take possession of and remove wheat referred to in subsection (2) and corn sacks in which any such wheat is contained.

(8) Wheat of a season referred to in section 5, other than wheat that is the property of the Board, of which possession is taken in accordance with this section, and any corn sacks in which the wheat is contained, shall, for the purposes of this Act, but without affecting the liability of a person for an offence, be deemed to be delivered to the Board under this Act.

(9)

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(9) In this section—

“authorized person” means a person appointed by the Board or the Chairman of the Board to be an authorized person for the purposes of this section;

“occupier”, in relation to premises, includes the person in charge of the premises.

25. A notice, authority, communication or instrument given or made by the Board shall be sufficiently authenticated if signed by the Chairman on behalf of the Board, and a notice, authority, communication or instrument so signed shall, in the absence of proof to the contrary, be deemed to have been given or made with the authority of the Board. ^{Notices by Board.}

26. A member of the Board is not personally liable for an act of the Board or of the member acting as such. ^{Indemnity.}

27. 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 \$200 or imprisonment for a term not exceeding six months. ^{Offences.}

28. 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 \$200 or imprisonment for six months, or both, for offences against the regulations. ^{Regulations.}

PART

Wheat Industry Stabilization.

PART V.**AMENDMENTS, REPEALS AND SAVINGS PROVISIONS.**

Amend-
ment of
Act No. 36,
1954.

Sec. 3.
(Defini-
tions.)

29. The Grain Elevators Act, 1954, is amended—

- (a) by omitting the definition of “Australian Wheat Board” in section 3 and by inserting instead the following definition :—

“Australian Wheat Board” means the Australian Wheat Board continued in existence by the Wheat Industry Stabilization Act 1974 of the Parliament of the Commonwealth.

Sec. 21.
(Board
may make
charges.)

- (b) by omitting from section 21 the figures “1968” and by inserting instead the figures “1974”.

Repeals.

30. Each Act specified in Column 1 of the Schedule is, to the extent specified opposite that Act in Column 2 of the Schedule, repealed.

Savings
provisions.

31. (1) Notwithstanding the repeals effected by section 30 but subject to subsection (2), any provisions of an Act that would, but for those repeals, have continued to apply to, or in relation to, wheat harvested before 1st October, 1974, continue so to apply, but this subsection does not prejudice the application to, or in relation to, any such wheat of a provision of this Act that is expressed to apply to, or in relation to, wheat of any season.

(2) A reference in any of the provisions referred to in subsection (1) 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.

SCHEDULE.

Wheat Industry Stabilization.

SCHEDULE.

Sec. 30.

REPEALS.

Column 1		Column 2
Year and number of Act.	Short title of Act.	Extent of Repeal.
1968, No. 50..	Wheat Industry Stabilization Act, 1968.	The whole Act.
1969, No. 53..	Wheat Quotas Act, 1969.	Part II.
1969, No. 74..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1969.	Section 2.
1970, No. 66..	Wheat Quotas Act, 1970.	Part II.
1971, No. 76..	Wheat Quotas Act, 1971.	Section 34.
1973, No. 88..	Wheat Industry Stabilization and Wheat Quotas (Amendment) Act, 1973.	The whole Act.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 13th December, 1974.*

Column 1

Column 2

History of Illness

Physical Examination

History of Illness

Physical Examination

History of Illness

Physical Examination

History of Illness

Physical Examination

History of Illness

Physical Examination

History of Illness

Physical Examination

History of Illness

Physical Examination

1. The patient had no other symptoms.

W. L. B. 1914

Continued

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