

**GRAIN HANDLING (AMENDMENT) ACT, 1980,
No. 176**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 176, 1980.

An Act to amend the Grain Elevators Act, 1954, to reconstitute the Grain Elevators Board of New South Wales, and for other purposes. [Assented to, 17th December, 1980.]

See also: Superannuation (Grain Handling) Amendment Act, 1980; Capital Debt Charges (Grain Handling) Amendment Act, 1980; Statutory and Other Offices Remuneration (Grain Handling) Amendment Act, 1980; Public Service (Grain Handling) Amendment Act, 1980; Wheat Marketing (Grain Handling) Amendment Act, 1980; Government and Related Employees Appeal Tribunal (Grain Handling) Amendment Act, 1980.

Grain Handling (Amendment).

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

Short
title.

1. This Act may be cited as the "Grain Handling (Amendment) Act, 1980".

Commence-
ment.

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

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules :—

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

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PRO-
VISIONS.

Amendment
of Act No.
36, 1954.

4. The Grain Elevators Act, 1954, is amended in the manner set forth in Schedule 1.

Savings,
transi-
tional
and other
provisions.

5. Schedule 2 has effect.

Grain Handling (Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954.

(1) Long title—

Omit "Grain Elevators Board of New South Wales", insert instead "Grain Handling Authority of New South Wales".

(2) Section 1 (1)—

Omit the subsection, insert instead :—

(1) This Act may be cited as the "Grain Handling Act, 1954".

(3) Section 2—

Omit the section, insert instead :—

2. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—CONSTITUTION OF THE GRAIN HANDLING
AUTHORITY—*ss.* 7, 8.

PART III.—VESTING OF GOVERNMENT GRAIN
ELEVATORS IN THE AUTHORITY—*ss.* 10, 11.

PART IV.—FUNCTIONS OF THE AUTHORITY—*ss.*
12-29.

PART V.—FINANCE—*ss.* 30-49A.

DIVISION 1.—*Loan Liability of the Authority to the
Treasurer—ss.* 30-32.

DIVISION 2.—*Loans—ss.* 33-47.

DIVISION 3.—*Accounts and Audit—ss.* 48-49A.

Grain Handling (Amendment).

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

PART VI.—MISCELLANEOUS—ss. 51–57.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF
THE AUTHORITY.

(4) Section 3—

Omit the section, insert instead :—

Interpre-
tation.3. (1) In this Act, unless the context or subject-matter
otherwise indicates or requires—

“Australian Wheat Board” means the Australian
Wheat Board continued in existence by the
Wheat Marketing Act 1979 of the Parliament
of the Commonwealth;

“Authority” means the Grain Handling Authority of
New South Wales constituted by this Act;

“functions” includes powers, authorities and duties;

“Managing Director” means the Managing Director of
the Authority;

“member” means a member of the Authority, and
includes the Managing Director;

“regulation” means a regulation made under this Act.

(2) A reference in this Act to the exercise of a
function includes, where that function is a duty, a refer-
ence to the performance of that duty.

Grain Handling (Amendment).

SCHEDULE 1—*continued.*

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

(5) Part II—

Omit the Part, insert instead :—

PART II.

CONSTITUTION OF THE GRAIN HANDLING AUTHORITY.

7. (1) There is hereby constituted a corporation under the corporate name of the "Grain Handling Authority of New South Wales".

Constitu-
tion of
Grain
Handling
Authority.

(2) The Authority—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Authority shall consist of 11 members appointed by the Governor, of whom—

- (a) 1 shall be appointed as the Managing Director of the Authority;

Functions
of
Managing
Director

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

- (b) 3 shall be appointed to represent wheatgrowers in New South Wales and shall be nominated by the Minister;
- (c) 3 shall be appointed to represent wheatgrowers in New South Wales and shall be elected in accordance with the regulations;
- (d) 1 shall be a member of the Public Service Association of New South Wales and shall be elected in accordance with the regulations;
- (e) 1 shall be a member of the Australian Workers' Union, New South Wales Branch, and shall be elected in accordance with the regulations; and
- (f) 2 shall be persons nominated by the Minister.

(4) One of the members (other than the Managing Director) shall, by the instrument of his appointment or by another instrument executed by the Governor, be appointed as Chairman of the Authority and another of them as Deputy Chairman of the Authority.

(5) Schedule 1 has effect with respect to the constitution and procedure of the Authority.

(6) Sections 38 and 39 of the Interpretation Act, 1897, apply in respect of the Authority as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Functions
of
Managing
Director.

8. (1) The Managing Director—

- (a) is subject to the control and direction of the Authority;

Grain Handling (Amendment).

SCHEDULE 1—*continued.*

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

- (b) is responsible, as the chief executive officer of the Authority, for the management of the affairs of the Authority subject to and in accordance with any directions given to him by the Authority;
- (c) subject to any limitations or restrictions specified in regulations made for the purposes of this paragraph, shall have and may exercise such of the Authority's functions under this or any other Act as may be so specified;
- (d) shall have and may, subject to and in accordance with section 55, exercise any functions delegated to him under that section; and
- (e) shall have and may exercise such other functions as are conferred or imposed on him by or under this or any other Act.

(2) Nothing in this section limits or restricts the exercise by the Authority of any of its functions.

(6) Part III, heading—

Omit "BOARD", insert instead "AUTHORITY".

(7) (a) Parts III–VI—

Omit "Board" wherever occurring (except in the expression "Australian Wheat Board" and where secondly occurring in section 23 (1) and section 55 (1)), insert instead "Authority".

(b) Section 33 (1)—

Omit "Board's", insert instead "Authority's".

Grain Handling (Amendment).

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

(8) Part IV, heading—

Omit the heading, insert instead :—

FUNCTIONS OF THE AUTHORITY.

(9) Section 12 (2), (3)—

At the end of section 12, insert :—

(2) The Authority shall, in the exercise of its functions in relation to wheat, have the following objectives :—

(a) to store wheat as quickly as possible after it is harvested;

(b) to hold wheat in its charge secure, uncontaminated and, where the Authority considers it appropriate to do so, separated, according to different varieties or grades of wheat, until it is required for delivery;

(c) to ensure that wheat is transported as efficiently as possible from the place where it is stored to domestic purchasers or to terminal ports;

(d) to exercise its functions at minimum cost consistent with—

(i) a satisfactory level of service to wheat-growers and to purchasers of wheat; and

(ii) the provision of satisfying and secure employment for the servants of the Authority.

Grain Handling (Amendment).

SCHEDULE 1—*continued.*

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

(3) The Authority shall, in the exercise of its functions in relation to grains other than wheat, have the same objectives as it has under subsection (2) in relation to wheat, but shall not exercise its functions in relation to grains other than wheat in a way that interferes with the exercise of its functions in relation to wheat.

(10) (a) Section 23 (1)—

Omit “exercise or discharge by the Board of its powers, authorities, duties and functions”, insert instead “exercise by the Authority of its functions”.

(b) Section 23 (1A)—

Omit “performance of the duties and functions”, insert instead “exercise of the functions”.

(11) Part V, Division 1, heading—

Omit “Board”, insert instead “Authority”.

(12) Section 50—

Omit the section.

(13) Section 52—

Omit “Chairman”, insert instead “Managing Director or by any servant of the Authority authorised to do so by the Authority”.

Grain Handling (Amendment).

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

(14) Section 55 (1)—

Omit “authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and”, insert instead “functions of the Authority (other than this power of delegation)”.

(15) Section 57 (1) (k1)—

Omit the paragraph.

(16) Schedule 1—

At the end of the Act, insert :—

Sec. 7 (5).

SCHEDULE 1.

CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

Provisions
as to
elected
members.

1. (1) The regulations may, subject to this Act, make provision for or with respect to the election of persons for appointment as the members referred to in section 7 (3) (c)–(e).

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations in relation to the election.

(3) The regulations made for the purposes of the election of the persons for appointment as the members referred to in section 7 (3) (c) shall make provision for the division of the State into 3 electoral districts and for one person to be elected from each electoral district.

(4) The persons entitled to vote in accordance with the regulations at an election of a person for appointment—

(a) as a member referred to in section 7 (3) (c)—shall be wheatgrowers having such qualifications as may be prescribed;

Grain Handling (Amendment).

SCHEDULE 1—*continued.*

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

(b) as a member referred to in section 7 (3) (d)—shall be servants of the Authority having such qualifications as may be prescribed; or

(c) as a member referred to in section 7 (3) (e)—shall be servants of the Authority having such qualifications as may be prescribed.

(5) A person may be, at the same time, both a member referred to in section 7 (3) (d) or (e) and a servant of the Authority.

(6) If a member referred to in section 7 (3) (d) or (e) is a servant of the Authority, nothing in any law, rule, direction or other requirement that—

(a) is applicable to him in his capacity as such a servant; and

(b) would not be so applicable if he were not such a servant, operates so as to prevent or restrict the exercise by him of any of his functions as a member.

2. A person who is of or above the age of 65 years is not eligible for appointment as a member, or to act in the office of a member under clause 9. Age of member.

3. (1) A member (other than a member referred to in section 7 (3) (c)–(e)) shall, subject to this Act, hold office for such term, not exceeding 5 years, as is specified in the instrument of his appointment. Term of office.

(2) A member referred to in section 7 (3) (c)–(e) shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member is, if otherwise qualified, eligible for re-appointment from time to time.

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*Filling of
vacancies.

4. (1) On the occurrence of a vacancy in the office of a member, the office shall, as soon as practicable, be filled so that the Authority is constituted in accordance with section 7 (3), unless the vacancy is in the office of a member referred to in section 7 (3) (c)–(e) and occurred within 6 months before the office was due to become vacant.

(2) Nothing in subclause (1) affects the operation of clause 9 pending the filling of a vacancy.

Managing
Director
to be
full-time
member.

5. The Managing Director shall devote the whole of his time to the duties of his office.

Special
provisions
relating
to members
other than
Managing
Director.

6. (1) In this clause, “member” does not include the Managing Director.

(2) The office of a member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

(3) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision does not operate to disqualify him from holding that office and also the office of a member or from accepting and retaining any remuneration payable to him as a member.

Remunera-
tion.

7. (1) The Managing Director is entitled to be paid—

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A member (other than the Managing Director) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Grain Handling (Amendment).

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

8. The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of any person as a member, and a person is not, in his capacity as a member, subject to those provisions. Public Service Act, 1979, not to apply.

9. (1) The Minister may, by writing under his hand, appoint a person (other than the Managing Director) to act in the office of a member while the member is absent from his office through illness or any other cause or where there is a vacancy in the office of the member, and the person so appointed, while so acting, shall have and may exercise the functions of the member in whose office he is appointed to act. Acting members.

(2) A member (other than the Managing Director) is, for the purposes of subclause (1), absent from and not entitled to exercise the functions of his office as such a member while he is acting in the office of the Managing Director pursuant to that subclause.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member and all acts or things done or omitted to be done by the person appointed under this clause, while so acting, shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the member.

10. (1) A member shall be deemed to have vacated his office— Casual vacancy.

(a) if he dies;

(b) if, not being the Managing Director, he is absent from 4 consecutive meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Authority before the expiration of 4 weeks after the last of those meetings;

(c) if, being the Managing Director, he absents himself from duty for a period of 14 consecutive days except on leave granted by the Minister, unless his absence is occasioned by illness or other unavoidable cause;

Grain Handling (Amendment).

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

- (d) if, being the Managing Director, he engages in any paid employment outside the duties of his office;
 - (e) if he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his remuneration or allowances as a member, or of his estate, for their benefit;
 - (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (g) if he is convicted in New South Wales of a crime or offence punishable by imprisonment for 12 months or upwards or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
 - (h) if he resigns his office by writing under his hand addressed to the Minister and the Minister accepts the resignation;
 - (i) if, being a member referred to in section 7 (3) (d) or (e), he ceases to hold the qualification by virtue of which he was appointed;
 - (j) if he is removed from office by the Governor pursuant to subclause (2);
 - (k) if, being the Managing Director, he is retired from office by the Governor pursuant to subclause (3); or
 - (l) upon his attaining the age of 65 years.
- (2) The Governor may, for any cause which appears to him sufficient, remove a member from office.
- (3) The Managing Director may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

11. (1) In this clause—

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of rights of Managing Director previously public servant, etc.

(2) Subject to subclause (3) and to the terms of his appointment, where the Managing Director was, immediately before his appointment as the Managing Director—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as the Managing Director, and—

(h) his service as the Managing Director shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

(i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

Grain Handling (Amendment).

 SCHEDULE 1—*continued.*

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

(3) If the Managing Director would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Managing Director or at any later time while he holds office as the Managing Director) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the Managing Director upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) The Managing Director shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Managing Director entitled to reappointment to former employment in certain cases.

12. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as the Managing Director, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as the Managing Director, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as the Managing Director), as the case may be, of that statutory body are entitled to retire;

“statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

(2) A person who ceases to be the Managing Director, otherwise than pursuant to clause 10 (subclause (1) (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Managing Director, he was—

- (a) an officer of the Public Service—to some position in the Public Service; or
- (b) an officer or employee of a statutory body—to some position in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as the Managing Director.

13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declaration of statutory bodies.

14. (1) The number of members which shall constitute a quorum at any meeting of the Authority is 6. Quorum.

(2) Any duly convened meeting of the Authority at which a quorum is present is competent to transact any business of the Authority.

15. (1) The Chairman of the Authority shall preside at all meetings of the Authority at which he is present. Presiding member.

(2) If the Chairman of the Authority is not present at a meeting of the Authority, the Deputy Chairman of the Authority shall preside at the meeting if he is present.

(3) If both the Chairman and Deputy Chairman of the Authority are not present at a meeting of the Authority, a member elected by the members present from among themselves shall preside at that meeting.

Grain Handling (Amendment).

 SCHEDULE 1—*continued.*

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

 General
proce-
dures.

16. The procedure for the calling of, and for the conduct of business at, meetings of the Authority shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Authority.

Voting.

17. (1) Questions arising at any meeting of the Authority shall be determined by a majority of votes of the members present and voting.

(2) In the event of an equality of votes at any meeting of the Authority, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

Minutes.

18. The Authority shall cause full and accurate minutes of the proceedings at its meetings to be kept, and shall submit to the Minister a copy of the minutes of each meeting within 7 days after the date on which the meeting is held.

 Additional
non-
voting
members.

19. A person who is for the time being authorised in writing by the Minister to do so may attend and participate at any meeting of the Authority, but shall not be entitled to vote on any question arising at any such meeting.

 Protection
from
liability.

20. No matter or thing done, and no contract entered into, by the Authority, and no matter or thing done by a member of the Authority or by any other person acting under the direction or delegation of the Authority shall, if the matter or thing was done or the contract was so entered into, in good faith, for the purposes of executing this or any other Act conferring or imposing functions upon the Authority subject the member or person personally to any action, liability, claim or demand.

Grain Handling (Amendment).

SCHEDULE 2.

Sec. 5.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. (1) In this Schedule, "appointed day" means the day appointed and notified under section 2 (2). Interpretation.

(2) Expressions used in this Schedule shall, except in so far as the context or subject-matter otherwise indicates or requires, have the same meanings respectively as in the Grain Handling Act, 1954.

2. (1) A person who, immediately before the appointed day, held office as a member of the The Grain Elevators Board of New South Wales— Existing members.

(a) shall cease to hold office as such on the appointed day;

(b) except in the case of the Chairman, is not entitled to any remuneration or compensation by reason of his so ceasing to hold that office; and

(c) is eligible, if otherwise qualified, to be appointed as a member of the Authority.

(2) If the Chairman of The Grain Elevators Board of New South Wales ceases to hold office pursuant to subclause (1), he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

3. (1) Notwithstanding anything to the contrary in the Grain Handling Act, 1954, the Minister may, pending an election of a person for appointment as a member referred to in section 7 (3) (c)-(e) of that Act, nominate a person for that appointment. Interim appointments of elected members of Authority.

(2) A person nominated by the Minister under subclause (1) shall, for the purposes of the Grain Handling Act, 1954, be deemed to have been elected in accordance with the regulations under that Act.

(3) A person is not eligible to be nominated by the Minister under subclause (1) if—

(a) in the case of a person nominated for appointment as a member referred to in section 7 (3) (c) of the Grain Handling Act, 1954 —he is not a wheatgrower;

*Grain Handling (Amendment).*SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) in the case of a person nominated for appointment as the member referred to in section 7 (3) (d) of that Act—he is not a member of the Public Service Association of New South Wales; or
- (c) in the case of a person nominated for appointment as the member referred to in section 7 (3) (e) of that Act—he is not a member of the Australian Workers' Union, New South Wales Branch.
- (4) A member nominated under this clause shall, subject to the Grain Handling Act, 1954, hold office until his successor is elected and appointed in accordance with that Act.
- Construction of certain references. 4. On and from the appointed day, a reference in any Act (other than this Act) or in any statutory instrument or in any other document, whether of the same or a different kind—
- (a) to the Grain Elevators Act, 1954, shall be construed as a reference to the Grain Handling Act, 1954; and
- (b) to The Grain Elevators Board of New South Wales shall be construed as a reference to the Grain Handling Authority of New South Wales.
- Continuity of corporation. 5. The corporation constituted by section 7 (1) of the Grain Handling Act, 1954, with the corporate name of the "Grain Handling Authority of New South Wales" is a continuation of, and the same legal entity as, the corporation constituted by the Grain Elevators Act, 1954, as in force immediately before the appointed day, with the corporate name of "The Grain Elevators Board of New South Wales".
- Validation. 6. The purported appointment pursuant to section 7 (5) (c1) (ii) of the Grain Elevators Act, 1954, as in force immediately before the appointed day, of Leonard Maxwell Ridd, John William Tanswell, Harold Noel Balcomb and Milton Wallace Taylor as members of The Grain Elevators Board of New South Wales—
- (a) for a term of 6 months commencing on 6th November, 1979;
- (b) for a term of 6 months commencing on 6th May, 1980; and

Grain Handling (Amendment).

SCHEDULE 2—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(c) for a term of 3 months commencing on 6th November, 1980, shall be deemed to be and be deemed always to have been valid, subject to the appointment for the term of 3 months commencing on 6th November, 1980, being deemed to have been an appointment for a term commencing on 6th November, 1980, and ending on the appointed day.

7. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act. Regulations.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 17th December, 1980.*

GOVERNMENT PRINTING OFFICE

SCHEDULE 2

THE GOVERNMENT PRINTING OFFICE ACT, 1962

1. The Governor may make regulations containing or providing for the following provisions...

(1) The Governor may make regulations containing or providing for the following provisions...

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day...

(3) The Governor may make regulations containing or providing for the following provisions...

A. R. CUTLER

Governor

5. The Governor may make regulations containing or providing for the following provisions...

(4) The Governor may make regulations containing or providing for the following provisions...

GRAIN HANDLING (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Superannuation (Grain Handling) Amendment Bill, 1980.

Capital Debt Charges (Grain Handling) Amendment Bill, 1980.

Statutory and Other Offices Remuneration (Grain Handling) Amendment Bill, 1980.

Public Service (Grain Handling) Amendment Bill, 1980.

Wheat Marketing (Grain Handling) Amendment Bill, 1980.

Government and Related Employees Appeal Tribunal (Grain Handling) Amendment Bill, 1980.

The objects of this Bill are:—

- (a) to change the name of The Grain Elevators Board of New South Wales to the Grain Handling Authority of New South Wales ("the Authority") and the name of the Grain Elevators Act, 1954, to the Grain Handling Act, 1954 ("the Act") (Schedule 1 (1), (2), (5), (6), (7), (8) and (11));
- (b) to reconstitute The Grain Elevators Board of New South Wales (which presently consists of a full-time Chairman, representatives of the State Rail Authority and of the Treasury, and 4 elected members representing wheat growers) so that it consists of—
 - (i) a full-time Managing Director who shall be the chief executive officer of the Authority;
 - (ii) 3 persons appointed by the Minister to represent wheat growers;
 - (iii) 3 persons elected by wheat growers to represent wheat growers, each elected from a separate electoral district in the State;
 - (iv) a member of the Public Service Association of New South Wales elected by servants of the Authority who have the qualifications prescribed by the regulations;
 - (v) a member of the Australian Workers' Union, New South Wales Branch, elected by servants of the Authority who have the qualifications prescribed by the regulations; and

- (vi) 2 persons nominated by the Minister;
(Schedule 1 (5), (12), (13), (15) and (16));
- (c) to provide for the appointment of a Chairman and a Deputy Chairman from among the part-time members of the Authority (Schedule 1 (5));
- (d) to re-enact certain provisions of the Act relating to the constitution and procedure of the Authority with minor modifications, and, in particular—
 - (i) to provide that the number of members that constitutes a quorum at any meeting of the Authority is 6 instead of 4;
 - (ii) to provide that certain persons may attend, but not vote at, meetings of the Authority;
 - (iii) to remove the provision that persons who are directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat are not eligible to be members of the Authority,
(Schedule 1 (5) and (16));
- (e) to specify the objectives of the Authority (Schedule 1 (9)); and
- (f) to enact savings, transitional and other provisions, and in particular to provide that—
 - (i) the existing members of The Grain Elevators Board of New South Wales shall cease to hold office upon the reconstitution of the Board and, except in the case of the Chairman, shall not be entitled to any compensation by reason of their so ceasing to hold office;
 - (ii) the Minister may make interim appointments in place of the elected members of the Authority pending the election of those members in accordance with the provisions of the Act; and
 - (iii) to validate certain appointments of members of The Grain Elevators Board of New South Wales;
(Schedule 2).

(c) 2 persons nominated by the Minister;
(Schedule 1 (15), (12), (13), (14) and (16));

(d) to provide for the appointment of a Chairman and 2 members of the Authority (Schedule 1 (17));

(e) to amend the provisions of the Act relating to the appointment and removal of the Authority with minor modifications and to provide for the

(f) to provide that the number of members of the Authority is 5 instead of 4;

(g) to provide that certain persons may attend, but not vote at, meetings of the Authority;

(h) to remove the provision that persons who are directors (other than as a wheatgrower) in the business of selling, for storage or dealing in wheat are not eligible to be members of the Authority;

(Schedule 2 (1) and (2)).

(i) to amend the provisions of the Authority (Schedule 3 (1) and (2)) and to provide for the appointment and other provisions, and amendments to

(j) to amend the provisions of the Electrical Energy Board of New South Wales (Schedule 4 (1) and (2)) and to provide for the appointment and other provisions, and amendments to

(k) the Minister may make interim appointments of persons to the vacant members of the Authority pending the appointment of new members in accordance with the provisions of the Act;

(l) to validate certain appointments of members of the State Elevators Board of New South Wales;

(Schedule 5).

Act No. 1980.
GRAIN HANDLING (AMENDMENT) BILL, 1980

It is 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:—

1. This Act may be cited as the "Grain Handling (Amendment) Act, 1980".

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

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

A BILL FOR

An Act to amend the Grain Elevators Act, 1954, to reconstitute the Grain Elevators Board of New South Wales, and for other purposes.

[MR DAY—19 November, 1980.]

4. The Grain Elevators Act, 1954, is amended in the manner set forth in Schedule 1.

See also: Superannuation (Grain Handling) Amendment Bill, 1980; Capital Debt Charges (Grain Handling) Amendment Bill, 1980; Statutory and Other Offices Remuneration (Grain Handling) Amendment Bill, 1980; Public Service (Grain Handling) Amendment Bill, 1980; Wheat Marketing (Grain Handling) Amendment Bill, 1980; Government and Related Employees Appeal Tribunal (Grain Handling) Amendment Bill, 1980.

Grain Handling (Amendment).

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

5 1. This Act may be cited as the "Grain Handling (Amend- Short
ment) Act, 1980". title.

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act shall
commence on such day as may be appointed by the Governor in
respect thereof and as may be notified by proclamation published
in the Gazette.

3. This Act contains the following Schedules :— Schedules.

15 SCHEDULE 1.—AMENDMENTS TO THE GRAIN ELEVATORS
ACT, 1954.

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PRO-
VISIONS.

4. The Grain Elevators Act, 1954, is amended in the manner Amendment
set forth in Schedule 1. of Act No.
36, 1954.

20 5. Schedule 2 has effect.

Savings,
transi-
tional
and other
provisions.

Grain Handling (Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954.

(1) Long title—

5 Omit "Grain Elevators Board of New South Wales", insert instead "Grain Handling Authority of New South Wales".

(2) Section 1 (1)—

Omit the subsection, insert instead :—

(1) This Act may be cited as the "Grain Handling Act, 1954".

10 (3) Section 2—

Omit the section, insert instead :—

2. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1-4.

15 PART II.—CONSTITUTION OF THE GRAIN HANDLING
AUTHORITY—ss. 7, 8.

PART III.—VESTING OF GOVERNMENT GRAIN
ELEVATORS IN THE AUTHORITY—ss. 10, 11.

PART IV.—FUNCTIONS OF THE AUTHORITY—ss.
12-29.

20 PART V.—FINANCE—ss. 30-49A.

DIVISION 1.—*Loan Liability of the Authority to the
Treasurer*—ss. 30-32.

DIVISION 2.—*Loans*—ss. 33-47.

DIVISION 3.—*Accounts and Audit*—ss. 48-49A.

Grain Handling (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

PART VI.—MISCELLANEOUS—ss. 51–57.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

(4) Section 3—

Omit the section, insert instead :—

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

Interpretation.

“Australian Wheat Board” means the Australian Wheat Board continued in existence by the Wheat Marketing Act 1979 of the Parliament of the Commonwealth;

“Authority” means the Grain Handling Authority of New South Wales constituted by this Act;

“functions” includes powers, authorities and duties;

“Managing Director” means the Managing Director of the Authority;

“member” means a member of the Authority, and includes the Managing Director;

“regulation” means a regulation made under this Act.

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

Grain Handling (Amendment)

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

(5) Part II—

Omit the Part, insert instead :—

PART II.

CONSTITUTION OF THE GRAIN HANDLING AUTHORITY.

7. (1) There is hereby constituted a corporation under the corporate name of the "Grain Handling Authority of New South Wales".

Constitution of Grain Handling Authority.

(2) The Authority—

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act;

(b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and

(c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Authority shall consist of 11 members appointed by the Governor, of whom—

(a) 1 shall be appointed as the Managing Director of the Authority;

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

5 (b) 3 shall be appointed to represent wheatgrowers in New South Wales and shall be nominated by the Minister;

(c) 3 shall be appointed to represent wheatgrowers in New South Wales and shall be elected in accordance with the regulations;

10 (d) 1 shall be a member of the Public Service Association of New South Wales and shall be elected in accordance with the regulations;

(e) 1 shall be a member of the Australian Workers' Union, New South Wales Branch, and shall be elected in accordance with the regulations; and

15 (f) 2 shall be persons nominated by the Minister.

(4) One of the members (other than the Managing Director) shall, by the instrument of his appointment or by another instrument executed by the Governor, be appointed as Chairman of the Authority and another of them as Deputy Chairman of the Authority.

(5) Schedule 1 has effect with respect to the constitution and procedure of the Authority.

25 (6) Sections 38 and 39 of the Interpretation Act, 1897, apply in respect of the Authority as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

8. (1) The Managing Director—

(a) is subject to the control and direction of the Authority;

Functions
of
Managing
Director.

Grain Handling (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

5 (b) is responsible, as the chief executive officer of the Authority, for the management of the affairs of the Authority subject to and in accordance with any directions given to him by the Authority;

10 (c) subject to any limitations or restrictions specified in regulations made for the purposes of this paragraph, shall have and may exercise such of the Authority's functions under this or any other Act as may be so specified;

15 (d) shall have and may, subject to and in accordance with section 55, exercise any functions delegated to him under that section; and

(e) shall have and may exercise such other functions as are conferred or imposed on him by or under this or any other Act.

20 (2) Nothing in this section limits or restricts the exercise by the Authority of any of its functions.

(6) Part III, heading—
Omit "BOARD", insert instead "AUTHORITY".

25 (7) (a) Parts III-VI—
Omit "Board" wherever occurring (except in the expression "Australian Wheat Board" and where secondly occurring in section 23 (1) and section 55 (1)), insert instead "Authority".

(b) Section 33 (1)—
Omit "Board's", insert instead "Authority's".

*Grain Handling (Amendment)*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

- (8) Part IV, heading—
Omit the heading, insert instead :—
- 5 FUNCTIONS OF THE AUTHORITY:
- (9) Section 12 (2), (3)—
At the end of section 12, insert :—
- (2) The Authority shall, in the exercise of its functions
in relation to wheat, have the following objectives :—
- 10 (a) to store wheat as quickly as possible after it is
harvested;
- (b) to hold wheat in its charge secure, uncontamin-
ated and, where the Authority considers it ap-
propriate to do so, separated, according to
15 different varieties or grades of wheat, until it is
required for delivery;
- (c) to ensure that wheat is transported as efficiently
as possible from the place where it is stored to
domestic purchasers or to terminal ports;
- 20 (d) to exercise its functions at minimum cost con-
sistent with—
- (i) a satisfactory level of service to wheat-
growers and to purchasers of wheat;
and
- 25 (ii) the provision of satisfying and secure
employment for the servants of the
Authority.

Grain Handling (Amendment)

SCHEDULE 1—*continued.*

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

- (3) The Authority shall, in the exercise of its functions in relation to grains other than wheat, have the same objectives as it has under subsection (2) in relation to wheat, but shall not exercise its functions in relation to grains other than wheat in a way that interferes with the exercise of its functions in relation to wheat.
- (10) (a) Section 23 (1)—
Omit “exercise or discharge by the Board of its powers, authorities, duties and functions”, insert instead “exercise by the Authority of its functions”.
- (b) Section 23 (1A)—
Omit “performance of the duties and functions”, insert instead “exercise of the functions”.
- (11) Part V, Division 1, heading—
Omit “Board”, insert instead “Authority”.
- (12) Section 50—
Omit the section.
- (13) Section 52—
Omit “Chairman”, insert instead “Managing Director or by any servant of the Authority authorised to do so by the Authority”.

Grain Handling (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

(14) Section 55 (1)—
Omit "authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and", insert instead "functions of the Authority (other than this power of delegation)".

(15) Section 57 (1) (k1)—
Omit the paragraph.

(16) Schedule 1—
At the end of the Act, insert :—

SCHEDULE 1.

Sec. 7 (5).

CONSTITUTION AND PROCEDURE OF THE AUTHORITY.

1. (1) The regulations may, subject to this Act, make provision for or with respect to the election of persons for appointment as the members referred to in section 7 (3) (c)-(e). Provisions as to elected members.

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations in relation to the election.

(3) The regulations made for the purposes of the election of the persons for appointment as the members referred to in section 7 (3) (c) shall make provision for the division of the State into 3 electoral districts and for one person to be elected from each electoral district.

(4) The persons entitled to vote in accordance with the regulations at an election of a person for appointment—

(a) as a member referred to in section 7 (3) (c)—shall be wheatgrowers having such qualifications as may be prescribed;

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

- 5 (b) as a member referred to in section 7 (3) (d)—shall be servants of the Authority having such qualifications as may be prescribed; or
- (c) as a member referred to in section 7 (3) (e)—shall be servants of the Authority having such qualifications as may be prescribed.
- 10 (5) A person may be, at the same time, both a member referred to in section 7 (3) (d) or (e) and a servant of the Authority.
- (6) If a member referred to in section 7 (3) (d) or (e) is a servant of the Authority, nothing in any law, rule, direction or other requirement that—
- 15 (a) is applicable to him in his capacity as such a servant; and
(b) would not be so applicable if he were not such a servant, operates so as to prevent or restrict the exercise by him of any of his functions as a member.
- 20 2. A person who is of or above the age of 65 years is not eligible **Age of member.** for appointment as a member, or to act in the office of a member under clause 9.
- 25 3. (1) A member (other than a member referred to in section 7 (3) (c)–(e)) shall, subject to this Act, hold office for such term, **Term of office.** not exceeding 5 years, as is specified in the instrument of his appointment.
- (2) A member referred to in section 7 (3) (c)–(e) shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.
- 30 (3) A member is, if otherwise qualified, eligible for re-appointment from time to time.

Grain Handling (Amendment)

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

4. (1) On the occurrence of a vacancy in the office of a member, Filling of
 the office shall, as soon as practicable, be filled so that the Authority vacancies.
 is constituted in accordance with section 7 (3), unless the vacancy
 is in the office of a member referred to in section 7 (3) (c)–(e) and
 occurred within 6 months before the office was due to become
 vacant.

(2) Nothing in subclause (1) affects the operation of clause 9
 pending the filling of a vacancy.

5. The Managing Director shall devote the whole of his time to Managing
 the duties of his office. Director to be full-time member.

6. (1) In this clause, "member" does not include the Managing Special
 Director. provisions relating to members other than Managing Director.

(2) The office of a member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

(3) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision does not operate to disqualify him from holding that office and also the office of a member or from accepting and retaining any remuneration payable to him as a member.

7. (1) The Managing Director is entitled to be paid— Remuneration.

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A member (other than the Managing Director) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

*Grain Handling (Amendment)*SCHEDULE 1—*continued*.AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued*.

8. The provisions of the Public Service Act, 1979, do not apply to
 or in respect of the appointment of any person as a member, and a
 5 person is not, in his capacity as a member, subject to those provisions. Public Service Act, 1979, not to apply.
9. (1) The Minister may, by writing under his hand, appoint a
 person (other than the Managing Director) to act in the office of a
 member while the member is absent from his office through illness
 or any other cause or where there is a vacancy in the office of the
 10 member, and the person so appointed, while so acting, shall have
 and may exercise the functions of the member in whose office he is
 appointed to act. Acting members.
- (2) A member (other than the Managing Director) is, for
 the purposes of subclause (1), absent from and not entitled to
 15 exercise the functions of his office as such a member while he is
 acting in the office of the Managing Director pursuant to that
 subclause.
- (3) No person shall be concerned to inquire whether or not
 any occasion has arisen requiring or authorising a person to act in
 the office of a member and all acts or things done or omitted to be
 20 done by the person appointed under this clause, while so acting,
 shall be as valid and effectual and shall have the same consequences
 as if they had been done or omitted by the member.
10. (1) A member shall be deemed to have vacated his office—
 25 (a) if he dies; Casual vacancy.
 (b) if, not being the Managing Director, he is absent from 4
 consecutive meetings of the Authority of which reasonable
 notice has been given him either personally or in the
 30 ordinary course of post, except on leave granted by the
 Authority before the expiration of 4 weeks after the last
 of those meetings;
 (c) if, being the Managing Director, he absents himself from
 35 duty for a period of 14 consecutive days except on leave
 granted by the Minister, unless his absence is occasioned
 by illness or other unavoidable cause;

Grain Handling (Amendment).

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

- (d) if, being the Managing Director, he engages in any paid employment outside the duties of his office;
- 5 (e) if he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his remuneration or allowances as a member, or of his estate, for their benefit;
- 10 (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 15 (g) if he is convicted in New South Wales of a crime or offence punishable by imprisonment for 12 months or upwards or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
- 20 (h) if he resigns his office by writing under his hand addressed to the Minister and the Minister accepts the resignation;
- (i) if, being a member referred to in section 7 (3) (d) or (e), he ceases to hold the qualification by virtue of which he was appointed;
- 25 (j) if he is removed from office by the Governor pursuant to subclause (2);
- (k) if, being the Managing Director, he is retired from office by the Governor pursuant to subclause (3); or
- (l) upon his attaining the age of 65 years.
- 30 (2) The Governor may, for any cause which appears to him sufficient, remove a member from office.
- (3) The Managing Director may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.
- 35

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

11. (1) In this clause—
- 5 “statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule; “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act. Preservation of rights of Managing Director previously public servant, etc.
- 10 (2) Subject to subclause (3) and to the terms of his appointment, where the Managing Director was, immediately before his appointment as the Managing Director—
- (a) an officer of the Public Service;
- 15 (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,
- he—
- 20 (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment; and
- 25 (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity, as if he had continued to be such an officer, contributor or person during his service as the Managing Director, and—
- 30 (h) his service as the Managing Director shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- 35 (i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

Grain Handling (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

5 (3) If the Managing Director would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as the Managing Director or at any later time while he holds office as the Managing Director) a contributor to any other superannuation scheme, and the provisions of subclause 10 (2) (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

15 (4) Subclause (3) does not prevent the payment to the Managing Director upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

20 (5) The Managing Director shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

25 12. (1) In this clause—

“retiring age” means—

25 (a) in relation to a person who was, immediately before his appointment as the Managing Director, an officer of the Public Service—the age of 60 years; and

30 (b) in relation to a person who was, immediately before his appointment as the Managing Director, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as the Managing Director), as the case may be, of that statutory body are entitled to retire;

35 “statutory body” means any body declared under clause 13 to be a statutory body for the purposes of this Schedule.

Managing Director entitled to reappointment to former employment in certain cases.

*Grain Handling (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—*continued.*

- 5 (2) A person who ceases to be the Managing Director, otherwise than pursuant to clause 10 (subclause (1) (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as the Managing Director, he was—
- 10 (a) an officer of the Public Service—to some position in the Public Service; or
- (b) an officer or employee of a statutory body—to some position in the service of that body,
- not lower in classification and salary than that which he held immediately before his appointment as the Managing Director.
- 15 13. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. **Declaration of statutory bodies.**
14. (1) The number of members which shall constitute a quorum **Quorum.** at any meeting of the Authority is 6.
- 20 (2) Any duly convened meeting of the Authority at which a quorum is present is competent to transact any business of the Authority.
15. (1) The Chairman of the Authority shall preside at all **Presiding member.** meetings of the Authority at which he is present.
- 25 (2) If the Chairman of the Authority is not present at a meeting of the Authority, the Deputy Chairman of the Authority shall preside at the meeting if he is present.
- 30 (3) If both the Chairman and Deputy Chairman of the Authority are not present at a meeting of the Authority, a member elected by the members present from among themselves shall preside at that meeting.

Grain Handling (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE GRAIN ELEVATORS ACT, 1954—continued.

16. The procedure for the calling of, and for the conduct of General business at, meetings of the Authority shall, subject to any pro- procedure that is specified in this Act or prescribed, be as determined by the Authority. 2

17. (1) Questions arising at any meeting of the Authority shall be determined by a majority of votes of the members present and voting. 10

(2) In the event of an equality of votes at any meeting of the Authority, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

18. The Authority shall cause full and accurate minutes of the proceedings at its meetings to be kept, and shall submit to the Minister a copy of the minutes of each meeting within 7 days after the date on which the meeting is held. 21

19. A person who is for the time being authorised in writing by the Minister to do so may attend and participate at any meeting of the Authority, but shall not be entitled to vote on any question arising at any such meeting. 22

20. No matter or thing done, and no contract entered into, by the Authority, and no matter or thing done by a member of the Authority or by any other person acting under the direction or delegation of the Authority shall, if the matter or thing was done or the contract was so entered into, in good faith, for the purposes of executing this or any other Act conferring or imposing functions upon the Authority subject the member or person personally to any action, liability, claim or demand. 23

Grain Handling (Amendment).

SCHEDULE 2.

Sec. 5.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. (1) In this Schedule, "appointed day" means the day appointed and notified under section 2 (2). Interpretation.
- 5 (2) Expressions used in this Schedule shall, except in so far as the context or subject-matter otherwise indicates or requires, have the same meanings respectively as in the Grain Handling Act, 1954.
2. (1) A person who, immediately before the appointed day, held office as a member of the The Grain Elevators Board of New South Wales— Existing members.
- 10 (a) shall cease to hold office as such on the appointed day;
- (b) except in the case of the Chairman, is not entitled to any remuneration or compensation by reason of his so ceasing to hold that office; and
- 15 (c) is eligible, if otherwise qualified, to be appointed as a member of the Authority.
- (2) If the Chairman of The Grain Elevators Board of New South Wales ceases to hold office pursuant to subclause (1), he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.
- 20 3. (1) Notwithstanding anything to the contrary in the Grain Handling Act, 1954, the Minister may, pending an election of a person for appointment as a member referred to in section 7 (3) (c)-(e) of that Act, nominate a person for that appointment. Interim appointments of elected members of Authority.
- (2) A person nominated by the Minister under subclause (1) shall, for the purposes of the Grain Handling Act, 1954, be deemed to have been elected in accordance with the regulations under that Act.
- (3) A person is not eligible to be nominated by the Minister under subclause (1) if—
- 30 (a) in the case of a person nominated for appointment as a member referred to in section 7 (3) (c) of the Grain Handling Act, 1954—
—he is not a wheatgrower;

*Grain Handling (Amendment).*SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

5. (b) in the case of a person nominated for appointment as the member referred to in section 7 (3) (d) of that Act—he is not a member of the Public Service Association of New South Wales; or
- (c) in the case of a person nominated for appointment as the member referred to in section 7 (3) (e) of that Act—he is not a member of the Australian Workers' Union, New South Wales Branch.
- 10 (4) A member nominated under this clause shall, subject to the Grain Handling Act, 1954, hold office until his successor is elected and appointed in accordance with that Act.
4. On and from the appointed day, a reference in any Act (other than this Act) or in any statutory instrument or in any other document, whether of the same or a different kind—
- 15 (a) to the Grain Elevators Act, 1954, shall be construed as a reference to the Grain Handling Act, 1954; and
- (b) to The Grain Elevators Board of New South Wales shall be construed as a reference to the Grain Handling Authority of New South Wales.
- 20 5. The corporation constituted by section 7 (1) of the Grain Handling Act, 1954, with the corporate name of the "Grain Handling Authority of New South Wales" is a continuation of, and the same legal entity as, the corporation constituted by the Grain Elevators Act, 1954, as in force immediately before the appointed day, with the corporate name of "The Grain Elevators Board of New South Wales".
- 25 6. The purported appointment pursuant to section 7 (5) (c1) (ii) of the Grain Elevators Act, 1954, as in force immediately before the appointed day, of Leonard Maxwell Ridd, John William Tanswell, Harold Noel Balcomb and Milton Wallace Taylor as members of The Grain Elevators Board of New South Wales—
- (a) for a term of 6 months commencing on 6th November, 1979;
- (b) for a term of 6 months commencing on 6th May, 1980; and

Grain Handling (Amendment).

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(c) for a term of 3 months commencing on 6th November, 1980,

shall be deemed to be and be deemed always to have been valid, subject
5 to the appointment for the term of 3 months commencing on 6th November,
1980, being deemed to have been an appointment for a term commencing
on 6th November, 1980, and ending on the appointed day.

7. (1) The Governor may make regulations containing other provisions
of a savings or transitional nature consequent on the enactment of this Act. Regulations.

10 (2) A provision made under subclause (1) may take effect as from
the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1)
takes effect from a date that is earlier than the date of its publication in
the Gazette, the provision does not operate so as—

15 (a) to affect, in a manner prejudicial to any person (other than the
State or an authority of the State), the rights of that person
existing before the date of its publication therein; or

20 (b) to impose liabilities on any person (other than the State or an
authority of the State) in respect of anything done or omitted to
be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations
under this clause so provide, have effect notwithstanding any other clause
of this Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

Grain Handling (Amendment).

SCHEDULE 2—continued.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.

(c) for a term of 3 months commencing on 6th November, 1980, shall be deemed to be and be deemed always to have been valid, subject to the appointment for the term of 3 months commencing on 6th November, 1980, being deemed to have been an appointment for a term commencing on 6th November, 1980, and ending on the appointed day.

7 (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

10 (2) A provision made under subsection (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

15 (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

20 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

30 (4) A provision made under subsection (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

BY AUTHORITY
 E. WEST GOVERNMENT PRINTER, NEW SOUTH WALES—1980



