

No. , 1919.

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## A BILL

To confer certain powers on the Government of New South Wales in regard to the marketing of the wheat harvest of the season 1919-1920, and the sale of wheat on account of the owners thereof; and for purposes consequent thereon or incidental thereto.

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

**1.** This Act may be cited as the "Wheat Marketing Act, 1919." Short title.

2. In this Act, unless the context or subject-matter otherwise requires,— Inter-pretation.

“ Authorised agent ” means any person (including firm or corporation) authorised by the Minister to take delivery of any wheat on his behalf in exercise of his powers under this Act, and includes any agent, employee, or servant of an authorised agent empowered by such authorised agent to act on his behalf in taking such delivery, and any agent, employee, or servant of such agent.

“ Blended wheat ” means wheat of the harvest of the season 1919–1920 with which has been blended or mixed any old wheat.

“ Certificate ” means any document in the prescribed form issued by the Minister or his authorised agent as evidence of the delivery of wheat by a grower to the Minister, and with respect to the transfer or assignment of a certificate includes chose-in-action the subject-matter of such certificate.

“ Deliver to the Minister ” means deliver or tender or cause to be delivered or tendered to an authorised agent for acceptance on account of the Minister any wheat of which it is intended to yield possession to the Minister.

“ Minister ” means the Minister of Agriculture or any person acting as such for the time being.

“ Old wheat ” means wheat harvested before the first day of September, one thousand nine hundred and nineteen.

“ Person ” includes any body of persons corporate or unincorporate.

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

“ Regulations ” means regulations made under this Act.

“ Sell ” includes barter and exchange, and “ sale ” has a corresponding interpretation.

“ States ” means the State of Victoria, Queensland, Tasmania, South Australia, and Western Australia,

*Wheat Marketing.*

Australia, and where not inconsistent with the context includes the State of New South Wales.

“This Act” includes any regulations made thereunder.

**3.** This Act shall apply to all wheat harvested during the season 1919-1920, together with all wheat which has been delivered to the Minister from the harvests of the years 1915-1916, 1916-1917, 1917-1918, 1918-1919, and is still undisposed of, and to all wheat of such harvests as has not yet been delivered to the Minister. Application.

**4.** The Premier of New South Wales may join with the Prime Minister of the Commonwealth of Australia and the Premiers of any or all of the States in formulating any scheme or schemes for concerted action in the marketing of the Australian wheat harvest of the season 1919-1920 or any modification of any such scheme or schemes, and may on behalf of the Government agree to any scheme or modification as aforesaid and to do any acts, matters, or things necessary or expedient to carry the same into operation. Power of Premier to join in scheme for marketing Australian wheat harvest, 1919-1920. cf. Vict. 2812, s. 4.

**5.** For the purpose of the satisfactory marketing of the wheat harvest of the season 1919-1920 and for the purposes of this Act— Powers of Minister and Treasurer. Vict. 2812, s. 5.

(a) the Minister, whether in conjunction with Ministers of the Crown representing the Commonwealth and any or all of the States or otherwise, may accept delivery of or sell or arrange for the sale of wheat on account of the owners thereof, and do all acts, matters, and things necessary or expedient in that behalf accordingly; and in particular but without limiting the generality of the foregoing powers—

- (i) may appoint or employ such authorised agents, officers, servants, and other persons as are necessary;
- (ii) may arrange with any bank or banks, or with the Government of the Commonwealth of Australia, for financial accommodation; and

(b)

- (b) the Treasurer of New South Wales, on behalf of the Government of New South Wales, may arrange with the Government of the Commonwealth of Australia for guaranteeing to the Commonwealth a refund of any shortage for which the Government of New South Wales is liable in respect of any operations pursuant to this Act which has been made good by the Commonwealth, or for repayment of any moneys provided by the Government of the said Commonwealth pursuant to subparagraph (ii), paragraph (a) of this subsection, for which the Government of New South Wales is liable. Any moneys payable by the Government of New South Wales under such arrangement shall be provided out of moneys to be appropriated by Parliament for the purpose.

**6.** (1) No person in New South Wales shall, except as prescribed, sell or deliver wheat to or buy wheat from any person other than the Minister or his authorised agent before the thirtieth day of September, one thousand nine hundred and twenty.

Prohibition  
of sales, &c.,  
except to  
Minister.  
See Vict. No.  
2812, s. 6.

(2) Any person guilty of a contravention of the provisions of this section shall be liable to a penalty not exceeding *five hundred* pounds.

(3) The Minister may as prescribed exempt (either generally or in any particular case) from the operation of this section—

- (a) sales or purchase of seed wheat by growers of wheat to or from growers of wheat for bona fide use by the purchasers in their farming operations;
- (b) sales by wheat-growers or purchasers of wheat grown by wheat-growers of a quality below that fit for milling purposes for bona fide use by the purchasers as food for their poultry and stock;
- (c) sales or purchases of wheat grown by any wheat-grower in areas of limited production of wheat specified by the Minister; and
- (d) such other sales and purchases as are prescribed.

(4)

(4) The Minister may at any time by notification published in the Gazette revoke any such exemption.

7. (1) All wheat delivered to the Minister for sale on account of the owners may be sold at such time or times and at such place or places as he may decide, and at such price or prices as, having regard to all the circumstances of the sale, he may consider to be the best obtainable.

Conditions relating to sale of wheat by Minister. S.A. 1229, s. 5.

(2) For the purpose of ascertaining the price to be paid to the owners of wheat delivered to the Government for sale, the Minister's decision as to the quality of such wheat, dockages, and all expenses and expenditure incurred in and about the marketing of the wheat shall be final.

(3) The Minister may make advances to owners on account of wheat delivered to the Government for sale.

8. Any person who, without the previous written authority of the Minister, grists any wheat (whether into flour or other product of wheat) for any other person after the commencement of this Act and before the first day of December, one thousand nine hundred and twenty, shall be liable to a penalty not exceeding *five hundred* pounds, and any contract entered into (whether before or after the commencement of this Act) in contravention of or inconsistent with the provisions of this section shall be void and of no effect.

Wheat not to be gristed without previous authority of Minister. Vict. 2346, s. 5.

9. (1) Every contract which is made in New South Wales, whether before or after the commencement of this Act, so far as it relates to the sale of New South Wales wheat or flour for delivery in New South Wales up to but not later than the thirtieth day of September, one thousand nine hundred and twenty, shall, when specified by the Minister in a notification published in the Gazette, be and is hereby declared to be and to have been void and of no effect so far as such contract has not been completed by delivery at the date of such notification: Provided that for the purposes of this section such contract shall be deemed to be severable.

Contracts for sale of wheat and flour. Vict. 2812, s. 7.

(2) Any transaction or contract with respect to any wheat or flour which is the subject matter of  
any

any contract or part of a contract which is by this section declared to be void shall also be void and of no effect, and any money paid in respect of any contract hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

**10.** (1) No action for damages for conversion or for detention of any wheat shall be brought against the Minister or any person acting under his authority by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898) or other encumbrance whatsoever of or upon or over such wheat or any crop from which such wheat was harvested or claiming to be the true owner of such wheat: Provided that any person who but for this subsection might have brought any such action may adopt the delivery of such wheat to the Minister as a delivery thereof by him to the Minister, and may claim accordingly for an account of the payments due in respect thereof.

No action against Minister except for an account. Vict. 2846, s. 7.

(2) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act, 1898, or any other Act, a person claiming to be entitled to any such mortgage, charge, lien, or other encumbrance, or claiming to be the true owner of such wheat, shall not be entitled to claim as aforesaid for the amount payable in respect of such wheat, or any part of such amount, unless he has given notice in writing in the form and containing the particulars prescribed to the Minister of such mortgage, charge, lien, or other encumbrance or claim of ownership, and then only for such portion of such amount as has not been paid to other persons by the Minister or any person acting under his authority at the time of the receipt by the Minister of such notice.

**11.** (1) Every grower of wheat which is subject to any mortgage, charge, lien, or encumbrance referred to in the last preceding section, or in respect of which or of the crop from which the same was harvested he has entered into any contract in derogation of his title to sell such wheat as the absolute owner thereof (and whether such mortgage, charge, lien, or encumbrance or contract of

Duty of grower to notify encumbrances, &c., on delivery of wheat to Minister. Vict. 2846, s. 8.

was made before or after the commencement of this Act), shall, when delivering or causing to be delivered such wheat to the Minister for sale pursuant to this Act, give to the person receiving such wheat on behalf of the Minister a notice in writing in the prescribed form of every such mortgage, charge, lien, or encumbrance or contract.

(2) A notice given in respect of a delivery made to any person receiving wheat on behalf of the Minister at one railway station or place of delivery shall not be deemed to be a compliance with this section in respect of a delivery made to any other person receiving wheat on behalf of the Minister at the same or any other railway station or place of delivery.

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

**12.** Where the Minister in good faith and without negligence has paid—

- (a) to a grower delivering or causing to be delivered any wheat for sale pursuant to this Act to the Minister or any person acting under the authority of the Minister ; or
- (b) to any person entitled or claiming to be entitled through such grower ; or
- (c) on the order of such grower or last-mentioned person,

Non-liability of Minister in respect of payments made in good faith, &c. cf. Vict. 2846, s. 9.

the price payable for such wheat or any part of such price, the Minister shall not be answerable to a person claiming to be entitled in respect of the wheat for such price or any part thereof or for damages or in any action, claim, or demand whatsoever.

**13.** (1) Where, in connection with any transfer of a certificate and the acceptance and allowance by the Minister of such transfer, the Minister has acted in good faith and without negligence, he shall not incur any liability to—

- (a) the true owner of any certificate ; or
- (b) any such transferee ; or

Non-liability of Minister in respect of dealings in good faith, &c., with certificate holders, &c. cf. Vict. 2969, s. 4.

(c)

(c) any parties claiming through, under, or in trust for any of them, for any loss, damage, or prejudice to such true owner or transferee, or parties accrued or accruing by reason of action on the part of the Minister in having so accepted and allowed a transfer.

(2) This section shall not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled, whether at law or in equity, to the chose-in-action the subject-matter or part of the subject-matter of any certificate.

(3) The Minister may plead this section in absolute bar of any proceedings (whether at law or in equity) by any owner, transferee, or party aforesaid to enforce any claim against the Minister, founded on such owner's or transferee's or party's claim to be the true owner of or in any way entitled to such chose-in-action or any part thereof.

**14.** (1) Save as provided in this section, no person shall deliver to the Minister in accordance with the provisions of this Act any old wheat or blended wheat.

Delivery of  
old or  
blended  
wheat  
prohibited  
except in  
certain cases.  
cf. Vic. 2969,  
s. 5.

(2) The owner of old wheat or blended wheat who is the grower thereof or has become the owner thereof as rent or return in kind under any share-farming agreement may deliver under the provisions of this Act any such wheat in accordance with the following provisions, but not otherwise:—

- (a) Delivery as aforesaid of such wheat shall be made only to a flour-miller who is also an authorised agent unless otherwise directed by the Minister.
- (b) Every bag of such wheat shall be clearly branded on both sides—
  - (i) in the case of old wheat—with a brand being a circle not less than two inches and not more than four inches in diameter; and
  - (ii) in the case of blended wheat—with a brand being two circles as aforesaid in contact or with no greater space between them than two inches; and

(c)



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- (c) When tendering such wheat to such flour-miller, the person tendering the same shall give notice in writing to such flour-miller that he tenders the same as old wheat or (as the case may be) as blended wheat, according as the bags are branded, and shall specify the number of bags of each brand tendered, and the name of the person for whose account the tender is made :

Provided that if such flour-miller is of opinion that such wheat or any proportion thereof is affected with weevil he may refuse to accept delivery of the same.

(3) An employee of, or a carrier, teamster or other person contracting with, another person (whether for reward or not) to deliver under the provisions of this Act any wheat as wheat of the season 1919-1920, who in good faith and in compliance with the instructions of such last-mentioned person delivers in accordance with the provisions of this Act old wheat or blended wheat as wheat of the season 1919-1920 shall not be deemed guilty of a contravention of this section.

(4) Every person who in contravention of this section, and whether by himself or by any other person, delivers on his own account or on account of any other person any wheat under the provisions of this Act shall be liable—

- (a) in the case of any delivery of old wheat—to a penalty not exceeding *twenty-five* pounds; and
- (b) in the case of any delivery of blended wheat—to a penalty not exceeding *twenty-five* pounds or to imprisonment for a term not exceeding *six* months or to both.

**15.** All wheat delivered to the Minister in accordance with the provisions of this Act before the thirtieth day of September, one thousand nine hundred and twenty shall, if the bags containing the same are not branded as provided in this Act, be deemed to have been delivered or tendered for delivery as wheat of the season 1919-1920.

Unbranded wheat deemed to be delivered as wheat of season 1919-1920. Vict. 2969, s. 6.

**16.** All pecuniary penalties recovered under this Act shall be paid to the Minister, to be applied towards the expenses of carrying the said Act into execution.

Application of penalty money. Vict. 2969, s. 8.

**17.**

**17.** The tendering of wheat by a grower (whether by himself or by any other person authorized by him) to an authorized agent for acceptance of delivery by him shall be prima facie evidence of an intention to deliver the tendered wheat to the Minister, to be by him disposed of in accordance with the provisions of this Act.

Tender to be evidence of intention to deliver.  
cf. Vict. 2969, s. 7.

**18.** All wheat delivered to the Minister in accordance with the provisions of this Act shall be delivered in the name of the actual grower of such wheat.

Delivery to be made in name of grower.

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

Accounts to be kept and audited.  
cf. Vict. 2812, s. 10.

(2) The accounts of all moneys received and paid as aforesaid shall be audited at such times as the Minister may direct.

**20.** Where the grower of any wheat delivered to the Minister is indebted to the Government in respect of any advance made to him to assist him in fallowing wheat land or in securing seed wheat or for any other purpose of any nature whatsoever, the Minister may in his absolute discretion refuse to issue any certificate in respect of wheat delivered by the said grower, or when such certificate has been issued may refuse to pay the whole or any part of the amount which would otherwise be payable in respect of such wheat, and may apply such amount or part thereof in payment or part payment of the said advance, and the foregoing powers may be exercised notwithstanding that a lien or other encumbrance exists over the said wheat or the crop from which the wheat has been harvested, provided that such lien or encumbrance was executed after the making of the aforesaid advance.

Discretion of Minister to refuse certificate to grower who is indebted to Government.

**21.** (1) Notwithstanding anything in the Government Railways Acts of New South Wales or the law relating to common carriers the Railway Commissioners for New South Wales may, on the request of the Minister, refuse to carry any wheat or flour (not the subject of an interstate

Power of Railway Commissioners to refuse to carry wheat or flour in certain cases.  
Vict. 2812, s. 9.

interstate contract) owned by any specified person in New South Wales from any place in New South Wales to any person in any other place in New South Wales, or, except as prescribed, to deliver any such wheat or flour.

(2) With respect to the refusal of the Railway Commissioners for New South Wales to carry or deliver any wheat or flour since the first day of December, one thousand nine hundred and fifteen, and before the commencement of this Act by or under the order or direction of or on behalf of the Government of New South Wales or any responsible Minister of the Crown—

- (a) all persons (including every responsible Minister of the Crown and the said Commissioners) by whom any act, matter, or thing was advised, commanded, ordered, directed, or done in connection with such refusal, shall be and are hereby freed, acquitted, discharged, released, and indemnified against every person whomsoever in respect thereof;
- (b) no action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or any responsible Minister of the Crown, or the said Commissioners, or any officer, or any person for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of such refusal; and any such action pending at the commencement of this Act, and any such claim or demand made before the commencement of this Act, shall cease and abate.

**22.** (1) The Governor may make regulations for—

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

Power of Governor to make regulations.  
Vict. 2812, s. 12.

(2)

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

(3) (a) All such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if Parliament is not then sitting then within fourteen days after the commencement of the next session.

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

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