



ANNO UNDECIMO

GEORGII VI REGIS.

A.D. 1947.

No. 47 of 1947.

An Act relating to the Marketing of Barley and other matters incidental thereto.

[Assented to 11th December, 1947.]

BE IT ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof as follows :

Short title.

1. This Act may be cited as the "Barley Marketing Act, 1947".

Commencement of Act.

2. (1) The provisions of this Act (other than this section and the schedule) shall not come into operation unless a proclamation is made by the Governor declaring that this Act shall commence on a day specified in the proclamation.

(2) No such proclamation shall be made unless a poll of barley growers has been first held on the question whether this Act shall be brought into operation and a majority of the votes validly cast at the poll are in the affirmative.

(3) The Chief Electoral Officer for South Australia shall take a poll such as mentioned in subsection (2) of this section as soon after this Act receives the Royal Assent as he can conveniently do so.

(4) At the poll every person who in the last season before the poll harvested for sale barley from not less than thirty acres shall, subject to the regulations, be entitled to one vote.

(5) The Minister shall prepare and supply to the Chief Electoral Officer a list containing the names of all persons who harvested barley as mentioned in subsection (4) of this section. The persons whose names appear on that list and no others shall be entitled to vote at the poll. The Minister may amend the list at any time before the ballot papers are posted.

- (6) The poll shall be conducted by postal voting.
- (7) The ballot paper shall be in the form set out in the schedule to this Act.
- (8) A barley grower shall indicate his vote in the following manner :—
- (a) If he desires that this Act shall come into operation—by placing the number 1 in the square opposite the word “ Yes ” and the number 2 in the square opposite the word “ No ” :
- (b) If he does not desire that this Act shall come into operation—by placing the number 1 in the square opposite the word “ No ” and the number 2 in the square opposite the word “ Yes ”:

Provided that a ballot paper shall not be informal solely because the voter has indicated his vote by placing in one square the number 1 or a cross, and by leaving the other square blank, and if he so votes by a cross that cross shall be deemed to be equivalent to the figure 1.

3. In this Act, unless inconsistent with the context or subject matter—

Interpretation.

“ board ” means the Australian Barley Board referred to in this Act: Provided that if The South Australian Barley Board is constituted under this Act, the word “ board ”, except in clause 4 of this Act, shall mean The South Australian Barley Board :

“ licensed receiver ” means a person licensed under this Act to receive barley on behalf of the board.

Constitution of Board and Administration.

4. (1) The Governor may enter into an arrangement with the Governor of Victoria for the constitution subject to this Act of a board to be known as the Australian Barley Board.

Constitution of Australian Barley Board.

(2) The board so constituted in pursuance of the arrangement shall consist of—

- (a) a chairman ;
- (b) two representatives of growers of barley in South Australia ;
- (c) one representative of growers of barley in Victoria ;
- (d) one person appointed, as provided in the arrangement, as representing brewers and maltsters.

(3) (a) The representatives of growers of barley in South Australia shall be elected by growers of barley in that State in the manner prescribed by regulations under this Act.

(b) The representative of growers of barley in Victoria is to be elected by growers of barley in Victoria in the manner prescribed by the law of Victoria.

(4) Every member of the board shall hold office for three years calculated from the first day of September in the year in which he was elected or appointed.

Provided that—

(a) a member elected or appointed to a casual vacancy on the board shall hold office for the balance of the term of his predecessor ;

(b) a member whose term has expired before his successor is elected or appointed shall, subject to this Act, remain in office until his successor is elected or appointed.

(5) An arrangement entered into under this section may provide for—

(a) the termination of the appointment of any member of the board for misbehaviour or incapacity or on other relevant grounds ;

(b) the vacation of office of any member of the board who resigns his office, becomes bankrupt, fails to attend a required number of meetings of the board, or whose appointment is terminated ;

(c) the filling of any casual vacancy on the board, whether occurring in the office of an elected or appointed member, by a person elected or appointed as provided in the arrangement.

(d) payment of members of the board—

and any such provision shall have effect accordingly.

(6) The board shall be a body corporate with perpetual succession and a common seal and may acquire hold and dispose of real and personal property in its corporate name. Judicial notice shall be taken of the seal of the board.

(7) The proceedings of the board shall not be invalidated by reason only of a vacancy in the membership of the board.

(8) A quorum of the board shall consist of three members.

(9) The decision of a majority of the members of the board present at a meeting at which there is a quorum shall be deemed to be the decision of the board.

(10) At a meeting the chairman shall have a deliberative vote and, if the voting on any question is equal, a casting vote also.

(11) Subject to this Act the board may regulate its own proceedings.

5. (1) If the Governor is satisfied that a board will not be constituted under section 4 of this Act in time to market the barley grown in the season 1948-1949, the Governor shall order that a board to be called "The South Australian Barley Board" shall be constituted, and a board shall be constituted accordingly. The word "board" in this section means The South Australian Barley Board.

Provisions for
State Barley
Board.

(2) The board shall consist of four members, namely :—

(a) a chairman and a member to represent brewers and maltsters, both of whom shall be appointed by the Governor :

(b) two growers' representatives elected by growers of barley in accordance with the regulations :

Provided that when a casual vacancy occurs, whether in the office of an elected or an appointed member, the Governor shall appoint a suitable person to fill that vacancy.

(3) At an election of members of the board every person who in the last season before the election harvested for sale barley grown on not less than thirty acres shall, subject to the regulations, be entitled to vote.

(4) The Chief Electoral Officer for the State shall conduct every election held under this section.

(5) Subject to this Act and the regulations every election shall be conducted in such manner as the Chief Electoral Officer deems proper.

(6) Every member of the board shall hold office for three years calculated as from the first day of September in the year in which he was elected or appointed :

Provided that—

(a) a member appointed to a casual vacancy shall hold office for the balance of the term of his predecessor :

(b) a member whose term of office has expired before his successor is elected or appointed shall, subject to this Act, remain in office until his successor is elected or appointed.

(7) The Governor may dismiss a member of the board for neglect of duty, mental or physical incapacity to perform his duties, or any conduct which, in the Governor's opinion, shows him to be unfit to be a member of the board.

(8) Members of the board shall be entitled to remuneration and allowances at rates approved by the Governor.

(9) The proceedings of the board shall not be invalidated by reason only of a vacancy in the membership of the board.

(10) A quorum of the board shall consist of three members.

(11) The decision of the majority of the members of the board present at a meeting at which there is a quorum shall be deemed to be a decision of the board.

(12) At a meeting the chairman shall not have a deliberative vote but if the voting on any question is equal, shall have a casting vote.

(13) Subject to this Act, the board may regulate its own proceedings.

(14) If a board is constituted under this section this Act shall be administered by that board.

Administration.

6. (1) This Act shall be administered by the board.

(2) In administering this Act the board shall not be deemed to represent the Crown.

Officers.

7. (1) For the purpose of the administration of this Act the board may appoint officers and other employees.

(2) The remuneration and allowances of the officers and employees of the board engaged in the administration of this Act shall be paid out of the funds of the board.

Licensed receivers.

8. (1) The board may license any person to receive barley on behalf of the board.

(2) A licence granted pursuant to this section shall contain such terms and conditions as the board fixes, and may be revoked or suspended by the board on breach of any condition.

(3) A person who at the commencement of this Act holds a licence as a licensed receiver under the National Security (Australian Barley Board) Regulations of the Commonwealth shall be deemed to hold a licence under this Act containing the same terms and conditions as the licence under the said regulations.

9. The board may do all or any of the following things, Powers of board.
namely :—

- (a) purchase or otherwise acquire, sell or otherwise dispose of, prepare for sale, treat, store, protect, transport or handle any barley, barley skins, barley bran, barley pollard, cornsacks, jute or jute products :
- (b) borrow money to enable it to exercise any of the powers or functions conferred on it by this Act, and give security over any of its assets for repayment of money so borrowed :
- (c) exercise in relation to barley any functions usually exercised by shipping agents :
- (d) act as agent for the Commonwealth or any State in connection with the purchase and sale of barley, oats, and grain sorghum :
- (e) do any other acts or things and enter into and carry out any transactions (including the purchase or sale of any property) which are necessary or convenient to be done entered into or carried out for giving effect to this Act, or which are incidental to the exercise of any power or function of the board.

10. (1) For the purposes of this Act any person thereto authorized in writing by the board to act under this section may enter any premises and inspect any stocks of barley, and any accounts books and documents relating to barley Inspection of barley and books.

(2) Any person who hinders or prevents any entry or inspection by any person duly authorized under this section shall be guilty of an offence.

11. Any person having any property of the board in his possession or under his care shall take all reasonable precautions to prevent damage to or the deterioration or loss of that property. Care of property of board.

12. (1) The board shall keep proper accounts of all its financial transactions and shall prepare a balance-sheet and a statement of its receipts and payments at least once a year. Accounts and audit.

(2) The board shall at all times keep a copy of its last annual balance-sheet and statement of receipts and payments affixed in a conspicuous place in that part of its office which is open to the public.

(3) The board shall have its accounts and balance-sheet audited by a qualified auditor approved by the Minister.

(4) The accounts of the board relating to barley of each season shall be kept separately from the accounts relating to barley of other seasons, and in each season separate accounts shall be kept for manufacturing and feed grade barley respectively.

Appeals against
decision of
board.

13. (1) A person dissatisfied with a decision or action or proposed decision or action of the board, may in writing request the Minister to review that decision, or action, or proposed decision or action.

(2) The Minister—

(a) shall give the person making the request, and the board, an opportunity to submit to him any information or arguments relevant to the matter of the request; and

(b) may give the board a direction relating to the matter of the request.

(3) Any such direction shall be binding on the board.

Delivery and Marketing of Barley.

Sale and
delivery of
barley.

14. (1) Subject to this and the next succeeding section, a person shall not after the appointed day sell or deliver barley to any person other than the board.

(2) Nothing in this section shall apply to—

(a) barley retained by the grower for use on the farm where it is grown;

(b) barley which has been purchased from the board;

(c) barley sold or delivered to any person with the approval of the board;

(d) barley sold at any auction market in accordance with a permit granted by the board;

(e) barley the subject of trade, commerce or intercourse between States or required by the owner thereof for the purpose of trade, commerce or intercourse between States.

(3) In this section "the appointed day" means the day declared by the board by notice in the *Gazette* to be the appointed day for the purposes of this section.

15. (1) Any person may deliver barley to the licensed receiver who is authorized by the board to accept barley from the area wherein that barley was grown, or to accept that barley.

Delivery of
barley.

(2) Delivery of barley to a licensed receiver shall for purposes of this Act be a delivery to the board.

(3) Upon delivery of barley to the board, unless it is otherwise agreed—

(a) the property in the barley shall pass to the board forthwith ;

(b) the owner of the barley shall be deemed to have sold it to the board at the price to be paid under this Act.

16. A licensed receiver—

Receiver to
hold barley.

(a) shall hold, on behalf of the board, all barley the property of the board which is at any time in his possession ; and

(b) shall not part with the possession of any such barley except in accordance with instructions from the board or from a person authorized by the board to give such instructions.

17. (1) Any person who, after the prescribed day, consigns or delivers to a licensed receiver any barley harvested before that day, shall make and forward to the licensed receiver a declaration correctly stating the season during which that barley was harvested.

Declaration to
be provided as
to old season's
barley.

(2) For the purposes of this section " the prescribed day " means the day which, in respect of each season, is declared by the board by notice published in the *Gazette* to be the final day of that season.

18. (1) The board shall market or otherwise dispose of to the best advantage all barley delivered to it under this Act.

Duty of board
to market
barley.

(2) In marketing or disposing of barley the board shall have regard to the reasonable requirements of persons requiring barley for use or consumption in Australia.

(3) The whole of the money received by the board from the sale or other disposal of barley shall be applied by the board in making payments to growers and paying the expenses of administering this Act.

Price to be
paid for
barley.

19. (1) The board shall pay the owner of any barley sold to it the price of that barley as determined by the board.

(2) In determining the price to be paid for any barley the board shall take into account—

- (a) the amount received or to be received by the board from the sale of barley of the same botanical classification and season ;
- (b) the expenditure incurred by the board in connection with transporting and marketing the barley and the administration of this Act ;
- (c) the place at which the barley is delivered to the board ;
- (d) any other circumstances affecting the value of the barley.

(3) The board may make progress payments, of such amount as the board deems reasonable, on account of any money payable or about to become payable by the board to any person as the price of barley.

Offences and Regulations.

Offences and
penalties.

20. (1) Any person who commits a contravention of, or fails to comply with, any provision of this Act, shall be guilty of an offence.

(2) Any person who is guilty of an offence against this Act shall be liable to a penalty of not more than one hundred pounds.

Regulations.

21. (1) The Governor may make regulations for or with respect to—

- (a) requiring any growers of barley to register and re-register with the board at the prescribed times their names and such other particulars as are prescribed, and requiring barley growers on ceasing to grow barley to notify the board thereof ;
- (b) prescribing all matters or things which are required or permitted by this Act to be prescribed or which are necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Any such regulations may prescribe penalties (not exceeding fifty pounds) for any breach thereof.

Application of Act.

22. This Act shall apply only to barley grown in the season 1948-1949 and in each of the four following seasons. Application of Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.

SCHEDULE.

Section 2.

BALLOT PAPER.

SOUTH AUSTRALIA.

Barley Marketing Act, 1947.

QUESTION.—Do you desire that the Barley Marketing Act, 1947, shall come into operation.

Yes

No

The voter shall indicate his vote as follows :—

If he desires that the Barley Marketing Act, 1947, shall come into operation he should place the number 1 in the square opposite the word "Yes" and the number 2 in the square opposite the word "No".

If he does not desire that the Barley Marketing Act, 1947, shall come into operation he should place the number 1 in the square opposite the word "No" and the number 2 in the square opposite the word "Yes".