

Barley Research Act 1980

No. 168 of 1980

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Barley Research Act 1980

No. 168 of 1980

An Act to provide for the collection of levy imposed by the *Barley Research Levy Act 1980* and to establish a Barley Research Trust Account, and for related purposes

[Assented to 17 December 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Barley Research Act 1980*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
 - “appoint” includes re-appoint;
 - “appropriate Minister”, in relation to a State, means the Minister of State of the State administering the relevant Department of the State, and includes a Minister of State of that State acting on behalf of that Minister;
 - “authorized officer” means an officer of the Australian Public Service who is, by virtue of an appointment under section 34, an authorized officer for the purposes of the provision in which the expression occurs;
 - “authorized person” means a person who is, by virtue of an appointment under section 34, an authorized person for the purposes of the provision in which the expression occurs;
 - “Council” means the Barley Industry Research Council established by this Act;
 - “deputy member” means a person appointed under section 18 as the deputy of a member;
 - “levy” means an amount of levy imposed by the Levy Act;

“Levy Act” means the *Barley Research Levy Act* 1980;

“member” means a member of the Council;

“relevant Department”, in relation to a State, means the Department of the State dealing with agricultural matters;

“research” means scientific, technical or economic research in connection with the barley industry, and includes—

- (a) the training of persons for the purpose of any such research;
- (b) the publication of reports, periodicals, books and papers in connection with such research;
- (c) the dissemination of information and advice in connection with scientific, technical or economic matters related to the barley industry; and
- (d) any matter incidental to a matter referred to in this definition;

“Research Account” means the Barley Research Trust Account established by this Act;

“State Committee” means a Barley Industry Research Committee for a State established by section 22.

(2) For the purposes of this Act, the Australian Capital Territory shall be deemed to be part of the State of New South Wales.

(3) For the purposes of this Act, a person is the purchaser of barley—

- (a) if he is liable to pay the grower of the barley for the barley and is in Australia;
- (b) if he is the agent in Australia of the person outside Australia who is liable to pay the grower of the barley for the barley; or
- (c) if the barley is delivered to him, or to a person acting on his behalf, by the grower of the barley otherwise than for storage on behalf of the grower and no person is liable to pay the grower for the barley.

Certain provisions to bind Crown

4. The provisions of this Act that apply to and in relation to purchasers of barley bind the Crown in right of a State.

PART II—COLLECTION OF LEVY

Time for payment of levy

5. (1) Subject to sub-section (2), levy imposed on any barley is due and payable upon the expiration of 2 weeks or such longer period as is from time to time prescribed, after the end of the quarter in which the barley was delivered by the grower to another person otherwise than for storage on behalf of the grower.

(2) Levy imposed on any barley that was delivered by the grower to another person, otherwise than for storage on behalf of the grower, during a quarter that ended before the date of commencement of this Act is due and payable on the expiration of 8 weeks after that date.

(3) In sub-sections (1) and (2), “quarter” means a period of 3 months ending on the last day of February, May, August or November.

Liability of purchaser

6. (1) For the better securing of the payment of levy, the purchaser of any barley is liable to pay to the Commonwealth, on behalf of the grower, an amount (in this section referred to as the “relevant amount”) equal to any levy on the barley that has become payable by the grower but has not been paid to the Commonwealth by or on behalf of the grower or recovered from the grower by the Commonwealth.

(2) For the purpose of ensuring that the purchaser of any barley is provided with the funds necessary for the due payment, on behalf of the grower, of the relevant amount—

- (a) a person may, notwithstanding any law of a State or Territory to the contrary, refuse to take delivery of the barley unless the grower of the barley pays to the purchaser an amount not exceeding the relevant amount or the amount that may reasonably be expected to be the relevant amount; and
- (b) the purchaser may, notwithstanding any law of a State or Territory or any agreement (whether entered into before or after the commencement of this Act) to the contrary, deduct from any moneys payable by him to the grower, or received by him on behalf of the grower, in respect of that barley an amount not exceeding so much of the relevant amount, or of the amount that may reasonably be expected to be the relevant amount, as has not been paid to the purchaser by the grower under this sub-section,

and, if the purchaser is so provided with funds, the grower is, upon that levy becoming payable, discharged from liability to pay that levy to the extent of the amount of the funds so provided, but the liability of the purchaser under sub-section (1) is not affected.

(3) Nothing in sub-section (2) shall be taken to authorize the refusal by a person to take delivery of barley that is required by or under a marketing law to be delivered to an authority established by or under that law or to an agent of such an authority and is tendered to that person accordingly.

(4) Where, under sub-section (1), an amount in respect of levy payable by the grower of any barley, being an amount that exceeds the amount of the funds (if any) with which the purchaser has been provided under sub-section (2) in respect of that levy, is paid on behalf of the grower by, or is recovered by the Commonwealth from, the purchaser—

- (a) the grower is, to the extent of the excess, discharged from his liability to the Commonwealth to pay that levy; and
- (b) the purchaser may recover from the grower, by set-off or otherwise, the amount of the excess.

(5) Where the Minister is satisfied that, by reason of special circumstances, it would be unreasonable to require the purchaser of any barley to pay,

or to pay in full, an amount payable by him under sub-section (1), the Minister may release him in whole or in part from his liability, or, if the purchaser has been provided with funds necessary for the due payment by him of an amount in respect of his liability, the Minister may release him in whole or in part from his liability to the extent that the amount of that liability exceeds the amount of those funds but, subject to sub-section (2), such a release does not affect any liability of the grower.

(6) In this section, a reference to levy shall be read as including a reference to an amount that has become payable by way of penalty under sub-section 7 (1) by reason of default in payment of that levy.

Penalty for non-payment

7. (1) Subject to sub-section (3), where the liability of the grower of any barley to pay levy is not discharged at or before the time when that levy is due and payable, there is payable by him to the Commonwealth by way of penalty, in addition to that levy, an amount calculated at the rate of 10% per annum upon that levy or upon that part of that levy from time to time remaining unpaid, to be computed from the time when that levy became due and payable.

(2) Subject to sub-section (3), where—

- (a) in pursuance of sub-section 6 (2), the purchaser of any barley has been provided with funds necessary for the due payment, on behalf of the grower, of the amount referred to in sub-section 6 (1); and
- (b) the purchaser has not, at or before the time when, under section 5, the levy becomes due and payable by the grower, paid to the Commonwealth, on behalf of the grower, the whole or any part of the amount of the funds so provided,

there is payable by the purchaser to the Commonwealth by way of penalty, in addition to the amount payable by the purchaser to the Commonwealth under sub-section 6 (1), an amount calculated at the rate of 10% per annum upon the amount of the funds so provided, or so much of that amount as has not been paid to the Commonwealth, to be computed from the time when the levy became due and payable.

(3) The Minister or, subject to sub-section (4), an authorized officer may, in a particular case, for reasons that the Minister or the authorized officer, as the case may be, in his discretion thinks sufficient, remit the whole or a part of an amount payable under this section.

(4) The power under sub-section (3) to remit the whole or a part of an amount payable under this section shall not be exercised by an authorized officer in a case where that amount exceeds \$500.

Recovery of levy, &c.

8. The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) levy that is payable;
- (b) an amount that is payable to the Commonwealth under section 6;

- (c) an amount that is payable by way of penalty under section 7.

Refund of levy, &c.

9. (1) Where—

- (a) in respect of any barley to which sub-section 5 (2) of the Levy Act relates; or
- (b) in respect of any barley that is, by virtue of section 8 of that Act, exempt from levy,

there has been paid to the Commonwealth an amount in respect of the levy that, but for the operation of that sub-section, or but for the exemption, as the case may be, would be payable in respect of that barley, an amount equal to the amount so paid shall be refunded by the Commonwealth.

(2) Where any levy or penalty under section 7 has been overpaid, an amount equal to the amount overpaid shall be refunded by the Commonwealth.

(3) Where—

- (a) a refund is to be made by the Commonwealth in accordance with sub-section (1) or (2) in respect of an amount that has been paid, or overpaid, to the Commonwealth; and
- (b) that amount has been taken into account in calculating an amount to be paid into the Research Account under paragraph 11 (1) (a),

the amount of the refund shall be paid from the Research Account.

PART III—BARLEY RESEARCH TRUST ACCOUNT

Barley Research Trust Account

10. (1) An account is hereby established to be known as the Barley Research Trust Account.

(2) The Research Account is a Trust Account for the purposes of section 62A of the *Audit Act* 1901.

Moneys to be paid into Research Account

11. (1) There shall be paid into the Research Account—

- (a) amounts equal to the amounts from time to time received by the Commonwealth—
 - (i) as levy;
 - (ii) in discharge of the liability of a person under sub-section 6 (1); and
 - (iii) as penalty under section 7;
- (b) subject to sub-section (2), amounts required for expenditure under sub-section 13 (1);
- (c) amounts paid to the Commonwealth for the purposes of the Research Account, not being amounts referred to in paragraph (d);

- (d) amounts paid to the Commonwealth for the purposes of the Research Account, being amounts so paid under an agreement referred to in section 14; and
- (e) amounts received by the Commonwealth—
 - (i) from the sale of any property paid for out of moneys expended from the Research Account;
 - (ii) from the sale of any property produced in the course of carrying out any research so paid for;
 - (iii) in respect of any work so paid for; or
 - (iv) as interest from the investment of moneys standing to the credit of the Research Account.

(2) The sum of the amounts paid into the Research Account by virtue of paragraph (1) (b) shall not exceed the sum of the amounts paid into the Research Account by virtue of paragraph (1) (a) (other than amounts related to amounts received by the Commonwealth by way of penalty) less the amount of any refunds of levy paid out of the Research Account under sub-section 9 (3).

(3) Amounts payable into the Research Account by virtue of paragraph (1) (a) or (b) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Separate accounts to be kept

12. (1) A separate account shall be kept of such of the moneys in the Research Account as represent—

- (a) amounts referred to in paragraph 11 (1) (b); and
- (b) amounts referred to in paragraph 11 (1) (c), not being amounts to which sub-section (2) of this section applies.

(2) A separate account shall be kept, in relation to each State, of such of the moneys in the Research Account as represent—

- (a) so much of the amounts referred to in paragraph 11 (1) (a) as represents amounts received by the Commonwealth in respect of barley produced in the State; and
- (b) amounts referred to in paragraph 11 (1) (c), being amounts paid to the Commonwealth for the purposes of the Account on condition that those amounts be expended in the State.

(3) There shall be credited to each account kept in accordance with this section such amounts as are from time to time determined by the Minister to be the just share of that account in amounts referred to in paragraph 11 (1) (d) or (e).

Application of moneys in Research Account

13. (1) Subject to sub-section (2), amounts standing to the credit of the account kept in accordance with sub-section 12 (1) may be paid out of that account—

- (a) with the approval of the Minister, for the purpose of research;
- (b) in payment of the expenses incurred by the Council in the performance of its functions;
- (c) in payment of remuneration, allowances and expenses payable to a member, or a deputy member, under section 27; and
- (d) in payment of fees, expenses and allowances payable to persons appointed under section 28 to advise the Council.

(2) The Minister shall not exercise his power under paragraph (1) (a) to approve the expenditure of amounts from the account kept in accordance with sub-section 12 (1) unless—

- (a) the Council has recommended the expenditure of those amounts; and
- (b) the Minister is satisfied that any research to be undertaken as a result of the payment would not, if the payment were not made, have been undertaken by the Commonwealth Scientific and Industrial Research Organization, the relevant Department of a State or a university in Australia.

(3) Amounts standing to the credit of an account kept in accordance with sub-section 12 (2) in relation to a State other than Tasmania may be paid out of that account, with the approval of the State Committee for that State—

- (a) for the purpose of research;
- (b) for payment of the expenses incurred by the Committee in the exercise of its powers and the performance of its functions under this Act;
- (c) for the payment of remuneration, allowances and expenses payable to a member of the Committee under section 27; and
- (d) in payment of fees, expenses and allowances payable to persons appointed under section 28 to advise the Committee.

(4) Amounts standing to the credit of the account kept in accordance with sub-section 12 (2) in relation to the State of Tasmania may, with the approval of the appropriate Minister of that State, be paid out of that account for the purpose of research.

(5) An amount of a refund that is required under sub-section 9 (3) to be paid out of the Research Account shall be debited to the account kept in accordance with sub-section 12 (2) in relation to the State in which the barley in respect of which the refund is payable was produced.

Agreements for carrying out of research

14. (1) The Minister or an authorized officer may, on behalf of the Commonwealth, enter into agreements for the purposes of, or for the purposes in connection with, any research to be done or performed with moneys provided in whole or in part out of moneys standing to the credit of the account kept in accordance with sub-section 12 (1).

(2) Without limiting the generality of sub-section (1), an agreement made with a person under that sub-section in relation to moneys provided out of the Research Account may—

- (a) provide for the moneys to which the agreement relates and any property acquired with those moneys or with moneys that include those moneys to be used only for purposes specified in the agreement and for the payment by the person to the Commonwealth for the purpose of the Research Account, in the event of any of those moneys or any of that property being used for a purpose not specified in the agreement, of an amount equal to the whole, or such part as the Minister determines, of those moneys;
- (b) provide for the payment by the person to the Commonwealth for the purposes of the Research Account of an amount equal to the whole, or such part as the Minister determines, of any net income derived by the person from—
 - (i) property acquired with moneys to which the agreement relates or with moneys that include those moneys; or
 - (ii) patents for inventions made, or any other property acquired, in the course of carrying out research or doing any other act or thing with those moneys or with moneys that include those moneys,or for the assignment by the person to the Commonwealth of any property referred to in sub-paragraph (i), of any patents for inventions or other property referred to in sub-paragraph (ii) or of any such invention or of any interest that he may have in any such invention; and
- (c) provide for the payment by the person to the Commonwealth for the purposes of the Research Account, in the event of the disposal otherwise than to the Commonwealth of any property of a kind referred to in paragraph (b), of an amount equal to the whole, or such part as the Minister determines—
 - (i) in the case of a disposal by way of sale or assignment for value—of the net proceeds of the sale or assignment; and
 - (ii) in any other case—of the value of the property as determined by the Minister.

Barley Industry Research Council

15. (1) For the purposes of this Act, there shall be a Barley Industry Research Council.

- (2)** The functions of the Council are—
 - (a) to consult with the State Committees, and with the appropriate Minister of the State of Tasmania, for the purpose of achieving co-operation, and avoiding duplication, in research in relation to which moneys are to be expended under this Act; and
 - (b) to make recommendations to the Minister with respect to—
 - (i) the expenditure from the Research Account of amounts standing to the credit of the account kept in accordance with sub-section 12 (1);

- (ii) proposed agreements under section 14; and
- (iii) the operation of this Act.

Constitution of Council

16. (1) The Council shall consist of 10 members, namely—

- (a) 1 member to represent the Department of Primary Industry;
- (b) 5 members, namely, 1 member to represent the relevant Department of each of the States of Queensland, New South Wales, Victoria, South Australia and Western Australia;
- (c) 2 members to represent growers of barley;
- (d) 1 member to represent the Commonwealth Scientific and Industrial Research Organization; and
- (e) 1 member to represent Australian universities.

(2) A member—

- (a) shall be appointed by the Minister; and
- (b) holds office, subject to this Act, for a period of 3 years.

(3) A member to represent the relevant Department of a State shall be appointed upon the nomination of the appropriate Minister of that State.

(4) The members to represent growers of barley shall be appointed upon the nomination of the growers organization.

(5) A member referred to in paragraph (1) (d) or (e) shall be appointed on the nomination of the organization or of the organizations, as the case may be, that he is to represent.

(6) If the office of a member becomes vacant before the expiration of the term for which he was appointed, the Minister may, subject to sub-section (7), appoint a person to hold the vacant office for the remainder of that term.

(7) A person shall not be appointed under sub-section (6) to hold the vacant office of a member other than the member referred to in paragraph (1) (a) unless he is a person nominated in accordance with whichever of sub-sections (3), (4) and (5) is applicable in relation to the appointment of such a member.

(8) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in connection with his nomination.

(9) The exercise of a power or the performance of a function by the Council is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Council.

Chairman of Council

17. The member representing the Department of Primary Industry is the Chairman of the Council.

Deputy members

18. (1) A member may, with the approval of the Minister, appoint a person to be his deputy.

(2) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice of it in writing to the Minister.

(3) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Council, to attend that meeting and, when so attending, shall be deemed to be a member and, if he is the deputy of the Chairman of the Council, shall be deemed to be the Chairman.

Termination of office of member or deputy member

19. (1) The Minister may terminate the appointment of a member or deputy member by reason of the misbehaviour, incompetence or the physical or mental incapacity of the member or deputy member.

(2) If a member or a deputy member fails, without reasonable excuse, to comply with his obligations under section 29, the Minister shall terminate his appointment.

(3) The Minister may terminate the appointment of a person as a member other than a member representing the Department of Primary Industry—

- (a)** in the case of a member representing the relevant Department of a State—at the request of the appropriate Minister of that State; or
- (b)** in any other case—at the request of the organization or organizations that the member represents.

Resignation of member or deputy member

20. (1) A member may resign his office by writing signed by him and delivered to the Minister.

(2) A person may resign his office as deputy of a member by writing signed by him and delivered to the member.

(3) A member shall, as soon as practicable after the resignation of his deputy, give notice of the resignation to the Minister.

Meetings of Council

21. (1) Subject to this section, meetings of the Council shall be held at such times and places as the Council from time to time determines.

(2) The Chairman of the Council may at any time convene a meeting of the Council.

(3) At a meeting of the Council—

- (a)** the Chairman of the Council and 6 other members constitute a quorum;
- (b)** the Chairman of the Council shall preside;

- (c) all questions shall be determined by a majority of the votes of the members present and voting; and
- (d) the Chairman of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

State Barley Industry Research Committees

22. (1) For the purposes of this Act, there shall be a Barley Industry Research Committee for each State other than Tasmania.

- (2) The functions of a State Committee are—
 - (a) to consult with the Council for the purpose of achieving co-operation, and avoiding duplication, in research in relation to which moneys are to be expended under this Act; and
 - (b) to give approvals for the purposes of sub-section 13 (3).

Constitution of State Committees

23. (1) A State Committee—

- (a) shall consist of such number of members as is agreed upon from time to time between the Minister and the appropriate Minister of the State concerned; and
- (b) shall be appointed by the Minister from persons nominated by the appropriate Minister but so that a majority of the members of the Committee shall be persons who are members of, and have been nominated to the appropriate Minister by, an organization or organizations in the State affiliated with the growers organization.

(2) Subject to sub-section (3), the members of a State Committee hold office during the pleasure of the Minister.

(3) If a member of a State Committee fails, without reasonable excuse, to comply with his obligations under section 29, the Minister shall terminate the appointment of the member.

(4) The appointment of a member of a State Committee is not invalidated and shall not be called in question by reason of a defect or irregularity in connection with his nomination or appointment.

(5) The exercise of a power or the performance of a function by a State Committee is not invalidated by reason of there being a vacancy or vacancies in the membership of the Committee.

Chairman of State Committees

24. (1) At the first meeting of each State Committee, the Committee shall appoint one of its members to be the Chairman of the Committee.

(2) At a meeting of each State Committee held not earlier than 1 July and not later than 30 September in each year after the year 1980, the Committee shall appoint one of its members to be the Chairman of the Committee.

(3) In the event of a vacancy occurring in the office of Chairman of a State Committee, the members of the Committee shall, at the next meeting of the Committee, appoint one of their number to be the Chairman of the Committee.

(4) A member of a State Committee appointed as Chairman of the Committee under sub-section (1), (2) or (3) holds office until the appointment of a successor or until he ceases to be a member of the Committee, whichever first occurs.

Meetings of State Committees

25. (1) Subject to this section, meetings of a State Committee shall be held at such times and places as the Committee from time to time determines.

(2) The Chairman of a State Committee may at any time convene a meeting of the Committee.

(3) At a meeting of a State Committee—

- (a) such number of members of the Committee as is determined from time to time by the Minister, not being less than two-thirds of the membership of the Committee, form a quorum;
- (b) the Chairman of the Committee shall preside;
- (c) if the Chairman of the Committee is not present, or if a Chairman of the Committee has not been appointed under section 24, the members of the Committee who are present shall appoint one of their number to preside at the meeting;
- (d) all questions shall be determined by a majority of the votes of the members of the Committee present and voting; and
- (e) the Chairman of the Committee or other person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

State Committees, &c., to notify Council of expenditure approved

26. (1) Where, under sub-section 13 (3), a State Committee approves the expenditure of an amount standing to the credit of the account kept in accordance with sub-section 12 (2) in relation to the State concerned, the Committee shall forthwith forward to the Council particulars of the amount and of the purpose for which the amount is to be expended.

(2) The Minister may make arrangements with the appropriate Minister of the State of Tasmania with respect to the forwarding to the Council of particulars of each amount standing to the credit of the account kept in accordance with sub-section 12 (2) in relation to that State the expenditure of which is approved under sub-section 13 (4) and particulars of the purpose for which the amount is to be expended.

Remuneration and allowances

27. (1) This section applies to a person who is—

- (a) a member;
- (b) a deputy member; or

(c) a member of a State Committee.

(2) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(3) A person to whom this section applies shall be paid such allowances as are prescribed.

(4) Sub-sections (2) and (3) have effect subject to the *Remuneration Tribunals Act* 1973, but sub-section 7 (9) of that Act does not apply in relation to the remuneration payable to a person to whom this section applies.

(5) If a person to whom this section applies is also a member of, or a candidate for election to, the Parliament of the Commonwealth or of a State, he shall not be paid remuneration or allowances under sub-section (2) or (3), but shall be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Council or State Committee concerned or of his engagement (whether in Australia or overseas), with the approval of the Council or that Committee, on business of the Council or that Committee.

Appointment of advisers

28. (1) The Minister or an authorized officer may, upon the recommendation of the Council or a State Committee, appoint persons to advise the Council or the Committee, as the case may be, in relation to any purpose in respect of which moneys may be expended from the Research Account.

(2) A person appointed under sub-section (1) shall be paid such fees, expenses and allowances (if any) as are prescribed.

Disclosure of interest by a member, &c.

29. (1) A member of the Council or of a State Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council or that State Committee, as the case may be, shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council or of that State Committee, as the case requires.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Council or of the relevant State Committee, as the case requires.

(3) The preceding provisions of this section apply to and in relation to a deputy member in like manner as they apply to and in relation to a member of the Council.

PART IV—MISCELLANEOUS

Power to call for information

30. An authorized person may, by notice in writing, require a person to furnish to him, within the time specified in the notice, such information in relation to matters relevant to the operation of this Act as is specified in the notice, including a return or information verified by statutory declaration.

Access to premises

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

(2) Where an authorized person is of the opinion that there is reasonable ground for believing that—

- (a)** premises are premises at which barley is produced or stored; or
- (b)** there are, on any premises, examinable documents,

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

(3) If, on an application under sub-section (2), the Justice of the Peace is satisfied, by information on oath or affirmation—

- (a)** that there is reasonable ground for believing that—
 - (i)** the premises to which the application relates are premises at which barley is produced or stored; or
 - (ii)** there are, on those premises, any examinable documents; and
- (b)** that the issue of the warrant is reasonably required for the purposes of this Act,

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

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

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

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of sub-section (1) or in pursuance of a warrant granted under sub-section (3).

Penalty: \$1,000.

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

- (a)** to search for, examine and take stock of any barley; and

- (b) to search for, inspect, take extracts from and make copies of any examinable documents.

(8) In this section, “examinable documents” means—

- (a) any books, documents or papers relating to financial dealings with respect to barley between growers of barley and purchasers of barley; or
- (b) any books, documents or papers relating to the production, storage, carriage, delivery, processing, sale, purchase or export of barley.

Offences in relation to returns, &c.

32. (1) A person shall not, without reasonable excuse, fail or neglect duly to furnish a return or information that he is required under this Act or the regulations to furnish.

(2) A person is not excused from furnishing a return or information that he is required under this Act or the regulations to furnish on the ground that the return or information might tend to incriminate him or make him liable to a penalty, but any return or information so furnished is not admissible in evidence against him in proceedings other than proceedings for an offence against sub-section (3).

(3) A person shall not present to an officer or other person doing duty in relation to this Act or the regulations an account, book or document, or make or furnish to such an officer or person a statement or return, that is false or misleading in a material particular.

Penalty: \$1,000.

Averments

33. In proceedings for the recovery of a debt referred to in section 8, a statement or averment in the complaint, claim or declaration of the plaintiff is *prima facie* evidence of the matter so stated or averred.

Appointment of authorized officers and authorized persons

34. The Minister may, by writing signed by him—

- (a) appoint an officer of the Australian Public Service, or officers included in a class of officers of the Australian Public Service, to be an authorized officer or authorized officers, as the case may be, for the purposes of a specified provision of this Act; or
- (b) appoint a person, or persons included in a class of persons, to be an authorized person or authorized persons, as the case may be, for the purposes of a specified provision of this Act.

Annual report

35. (1) The Council shall, by 31 December in each year, prepare and submit to the Minister a report on the operation of this Act during the period of 12 months that ended on the preceding 30 June.

(2) The Minister shall cause a copy of a report submitted to him under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after he has received the report.

(3) The first report under this section shall relate to the period commencing on the date of commencement of this Act and ending on 30 June 1982 and the reference in sub-section (1) to a period of 12 months shall be taken to include that period.

Review of decisions

36. Applications may be made to the Administrative Appeals Tribunal for a review of—

- (a) decisions made by the Minister for the purposes of sub-section 6 (5) or 7 (3); and
- (b) decisions made by an authorized officer for the purposes of sub-section 7 (3).

Regulations

37. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for facilitating the collection or recovery of amounts of levy or penalty and, in particular—

- (a) providing for the manner of payment of levy;
- (b) requiring the keeping of records in respect of barley by growers and purchasers of barley and by such other persons (if any) as are specified in the regulations;
- (c) requiring growers and purchasers of barley and such other persons (if any) as are specified in the regulations to furnish returns for the purposes of this Act; and
- (d) prescribing penalties not exceeding a fine of \$500 for offences against the regulations.