Wheat Marketing Act 1989

Act No. 58 of 1989 as amended

This compilation was prepared on 1 October 2007
taking into account amendments up to Act No. 108 of 2007

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

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An Act relating to the export of wheat, and for other purposes

Part 1—Preliminary

1 Short title [*see* Note 1]

This Act may be cited as the *Wheat Marketing Act 1989*.

3 Definitions

In this Act, unless the contrary intention appears:

accredited testing laboratory means a person or body that is accredited as an accredited testing laboratory under the non-bulk wheat quality assurance scheme.

Chairperson means the Chairperson of the Commission.

Commission means the Export Wheat Commission referred to in section 4.

member means a member of the Commission (including the Chairperson).

nominated company B means the company that was nominated company B for the purposes of the repealed Part 3A.

non-bulk wheat quality assurance scheme means the scheme under subsection 67(1).

related body corporate has the same meaning as in the *Corporations Act 2001*.

repealed Part 3A means Part 3A of this Act that was repealed by the *Wheat Marketing Legislation Amendment Act 1998*.

wheat export charge amounts means:

(a) amounts of charge identified by the regulations for the purposes of this definition; and

(b) amounts payable under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to that charge.

Note: The charge mentioned in paragraph (a) is to be imposed by regulations that specify the period for which the charge is to apply.

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part 2—Export Wheat Commission

Division 1—Establishment and functions

4 Export Wheat Commission

(1) The Wheat Export Authority that existed under this Act immediately before the commencement of this subsection continues in existence as the Export Wheat Commission.

Note: Section 25B of the *Acts Interpretation Act 1901* deals with the consequences of the change of name.

(1A) To avoid doubt, a reference in a law of the Commonwealth to the Export Wheat Commission must, in relation to matters that occurred before the commencement of this subsection, be construed as a reference to the Wheat Export Authority.

(2) The Commission:

(a) is a body corporate with perpetual succession; and

(b) is to have a common seal; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Commission on a document, and must presume that the document was duly sealed.

(4) A document signed by the Chairperson on behalf of the Commission is taken to have been signed with the authority of the Commission, unless the contrary is proved.

5 Functions and powers of the Commission

(1) The Commission has the following functions:

(a) to control the export of wheat from Australia (other than the export of wheat in bags or containers);

(b) to monitor nominated company B's performance in relation to the export of wheat and examine and report on the benefits to growers that result from that performance;

(c) such other functions as are conferred on the Commission by:

(i) this Act; or

(ii) the non-bulk wheat quality assurance scheme.

(2) The Commission has power to do all things that are necessary or convenient to be done in connection with the performance of its functions, other than the power:

(a) to acquire, hold and dispose of real and personal property; or

(b) to enter into contracts; or

(c) to lease the whole or any part of any land or building for the purposes of the Commission.

Note: For the power to enter into contracts etc. on behalf of the Commonwealth for the benefit of the Commission, see section 44 of the *Financial Management and Accountability Act 1997* as it applies in relation to the Commission as an Agency.

(3) A right to sue is taken not to be personal property for the purposes of paragraph (2)(a).

5AA Commission's financial liabilities are Commonwealth liabilities

(1) Any financial liabilities of the Commission are taken to be liabilities of the Commonwealth.

(2) For the purposes of this section:

financial liability means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

5A Performance of the Commission's wheat export control function

(1) In performing its function of controlling the export of wheat from Australia (other than the export of wheat in bags or containers), the Commission must seek to complement any objective of nominated company B to maximise net returns for pools operated by that company, while at the same time seeking to facilitate the development of niche and other markets where the Commission considers that this may benefit both growers and the wider community.

(2) Subsection (1) does not apply after the time that subsection 57(1) commences to apply to nominated company B.

5B Delegation by the Commission

(1) The Commission may, by writing, delegate any or all of its functions and powers to a person who is:

(a) a member of the staff of the Commission; and

(b) an SES employee or acting SES employee.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 17AA of the *Acts Interpretation Act 1901*.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Commission.

5C Reports about nominated company B's performance

Report for Minister

(1) The Commission must prepare and give to the Minister each financial year a report in relation to:

(a) nominated company B's performance in relation to the export of wheat for the year; and

(b) the benefits to growers that resulted from that performance.

(2) The Commission must give the report for a financial year to the Minister on or before 31 December in the next financial year.

Report for growers

(3) The Commission must prepare and publish a report for growers each financial year in relation to:

(a) nominated company B's performance in relation to the export of wheat for the year; and

(b) the benefits to growers that resulted from that performance.

(4) The Commission must publish the report for a financial year on or before 31 December in the next financial year.

Note: Information that is protected from disclosure by subsection 5E(2) must not be included in a report for growers.

5D Power to obtain information

(1) The Commission may direct nominated company B, or a related body corporate of nominated company B, to give to the Commission:

(a) information; or

(b) documents, or copies of documents, in the custody or under the control of nominated company B or the related body corporate;

that the Commission considers relevant to the operation of pools mentioned in section 84 (including the costs of operating the pools and the returns to growers that result from the pools).

(2) A direction must:

(a) be in writing; and

(b) specify the information that is, or documents that are, to be given; and

(c) specify the date by which the information is, or documents are, to be given.

(3) A direction may specify the manner and form in which the information is, or documents are, to be given.

(4) The directed company must comply with a direction.

(5) If the directed company does not comply with a direction by the specified date, the Commission may apply to the Federal Court for an order under subsection (6).

(6) If the Federal Court is satisfied that:

(a) the directed company has not complied with the direction; and

(b) if information is specified in the direction—the information is relevant to the operation of pools mentioned in section 84 (which may include the costs of operating the pools and the returns to growers that result from the pools); and

(c) if documents are specified in the direction—the documents are in the custody or under the control of the directed company and are relevant to the operation of pools mentioned in section 84 (which may include the costs of operating the pools and the returns to growers that result from the pools);

the Federal Court may make the following orders:

(d) an order granting an injunction requiring the directed company to comply with the direction;

(e) any other order that the Court considers appropriate.

(7) The Federal Court may exercise powers under subsection (6) whether or not:

(a) it appears to the Court that the directed company intends to continue to fail to comply with the direction; or

(b) the directed company has previously failed to comply with a direction.

(8) The Federal Court may discharge or vary an injunction granted under this section.

5DA Power to request information and documents

Scope

(1) This section applies to a person if the Commission believes on reasonable grounds that the person has information or a document that is relevant to the functions of the Commission.

Request

(2) The Commission may, by written notice given to the person, request the person:

(a) to give to the Commission, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the Commission, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the Commission, within the period and in the manner specified in the notice, those copies.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

5DB Power to request a report

Scope

(1) This section applies to a person if the Commission believes on reasonable grounds that:

(a) the person has information or a document that is relevant to the functions of the Commission; and

(b) the person is capable of using the information or document to prepare a report about a particular matter that is relevant to the functions of the Commission.

Request

(2) The Commission may, by written notice given to the person, request the person:
(a) to prepare such a report; and
(b) to give the report to the Commission within the period specified in the notice.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

5DC Minister may direct investigations

(1) If, in the Minister's opinion, it is in the public interest for a particular matter to which subsection (2) applies to be investigated, the Minister may, by written notice given to the Commission, direct the Commission to investigate that matter.

(2) This subsection applies to a matter relating to any of the following:
(a) the operation of a pool mentioned in section 84;
(b) the export of wheat by nominated company B;
(c) the export of wheat by a person other than nominated company B;
(d) the provision of services to nominated company B, where those services relate to:
(i) the operation of a pool mentioned in section 84; or
(ii) the export of wheat;
(e) the provision of services to a person other than nominated company B, where those services relate to the export of wheat;
(f) a function conferred on the Commission by this Act;
(g) an alleged or suspected contravention of this Act.

(3) It is immaterial whether a matter occurred before, at or after the commencement of this section.

(4) The Commission must comply with a direction under subsection (1).

Report on investigation

(5) At the end of an investigation under this section, the Commission must prepare a report about the investigation.

(6) A report under this section must set out:
  (a) the Commission's findings about the matter investigated; and
  (b) the evidence and other material on which those findings are based; and
  (c) such other matters relating to, or arising out of, the investigation as:
    (i) the Commission thinks fit; or
    (ii) the Minister directs.

Distribution of report

(7) As soon as practicable after preparing a report under this section, the Commission must give a copy of the report to the Minister.

(8) If a report, or a part of a report, under this section relates to an alleged or suspected contravention of a law of the Commonwealth or of a State or Territory, the Commission may give a copy of the whole or a part of the report to:
  (a) the Australian Federal Police; or
  (b) the police force of a State or Territory; or
  (c) the Australian Securities and Investments Commission; or
  (d) the Australian Prudential Regulation Authority; or
  (e) the Commissioner of Taxation; or
  (f) the Australian Competition and Consumer Commission; or
  (g) a prescribed agency.

(9) If a report, or a part of a report, under this section relates to a person's affairs to a material extent, the Commission may:
  (a) at the person's request; or
  (b) on its own initiative;
give the person a copy of the report or a part of the report.

Publication of report

(10) The Minister may cause the whole or a part of a report under this section to be published (whether on the Internet or otherwise), so

long as the publication does not involve the disclosure of information that could reasonably be expected:

(a) to cause financial loss or detriment to a person; or

(b) to reduce the return for a pool mentioned in section 84.

5E Dealing with confidential information

(1) This section applies to a person who is or has been:

(a) a member of the Commission; or

(b) a member of the staff of the Commission; or

(c) a person who performs services in connection with the functions of the Commission; or

(ca) a person whose services are made available to the Commission under section 15; or

(d) the Minister; or

(e) a person employed as a member of staff of the Minister under section 13 or 20 of the *Members of Parliament (Staff) Act 1984*; or

(f) a person appointed by the Minister to conduct the review under subsection 57(7); or

(g) a person who assists a person mentioned in paragraph (f) in the conduct of the review.

(2) The person must not disclose information if:

(a) either:

(i) it is information given to the Commission under section 5D and the company that gave the information claims it is commercial-in-confidence information; or

(ii) it is information contained in a document given to the Commission under section 5D and the company that gave the document claims that the information is commercial-in-confidence information; and

(b) the disclosure of the information could reasonably be expected:

(i) to cause financial loss or detriment to the directed company or a related body corporate of the directed company; or

(ii) to directly benefit a competitor of the directed company or of a related body corporate of the directed company; or

(iii) to reduce the return for a pool mentioned in section 84.

Penalty: Imprisonment for 1 year.

(3) Subsection (2) does not prevent the person from disclosing information:

(a) with the consent of the company that gave the information; or

(b) in accordance with an order of a court; or

(c) to any of the following persons, for a purpose in connection with the performance of the functions of the Commission:

(i) a member of the Commission;

(ii) a member of the staff of the Commission;

(iii) a person who performs services in connection with the functions of the Commission;

(iv) a person whose services are made available to the Commission under section 15; or

(d) to the Minister; or

(da) under subsection 5DC(7), (8) or (9); or

(e) to a person employed as a member of staff of the Minister under section 13 or 20 of the *Members of Parliament (Staff) Act 1984*; or

(f) to any of the following persons, for a purpose in connection with the conduct of the review under subsection 57(7):

(i) a person appointed by the Minister to conduct the review;

(ii) a person who assists a person mentioned in subparagraph (i) in the conduct of the review.

Note: The defendant bears an evidential burden in relation to a matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

Division 2—Membership

6 Membership of the Commission

(1) The Commission consists of the following members:

(a) a Chairperson;

(b) at least 3, and not more than 5, other members.

(2) Each member is to be appointed by the Minister by written instrument.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

(3) A person is not eligible for appointment as a member unless the Minister is satisfied that the person has:

(a) substantial experience or knowledge; and

(b) significant standing;

in at least one of the following fields:

(c) international trade;

(d) international marketing;

(e) commodity trading;

(f) commodity logistics;

(g) foreign exchange trading;

(h) finance;

(i) regulation;

(j) public policy;

(k) business;

(l) law;

(m) grain production;

(n) export wheat production.

(3A) The Minister must ensure that at least 1, but not more than 2, of the members are appointed on the basis of:

(a) substantial experience or knowledge; and

(b) significant standing;

in the field of export wheat production.

(4) The Minister must ensure that at least 1, but not more than 2, of the members are appointed on the basis of:

(a) substantial experience or knowledge; and

(b) significant standing;

in the field of grain production.

(4A) A member holds office for the period specified in his or her instrument of appointment. The period must not exceed 3 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

(5) The members hold office on a part-time basis.

(6) The performance of functions, or the exercise of powers, by the Commission is not affected by a vacancy or vacancies in its membership.

7 Resignation

(1) A member may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

8 Termination of appointment

(1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) The Minister must terminate the appointment of a member if the member:

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

(b) fails, without reasonable excuse, to comply with section 9A or 9B; or

(c) is absent, without the prior consent of the Commission, from 3 consecutive meetings of the Commission otherwise than on business of the Commission undertaken with the approval of the Commission.

9 Remuneration and allowances

(1) A member is to be paid the remuneration that is determined by the Remuneration Tribunal. However, if no determination of that remuneration by the Tribunal is in operation, a member is to be paid the remuneration that is prescribed by the regulations.

(2) A member is to be paid such allowances as are prescribed by the regulations.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

9A Standing obligation to disclose interests

(1) A member must disclose any interest he or she has if that interest could conflict with the proper performance of the functions of his or her office. Disclosure is required whether or not there is any particular matter under consideration that gives rise to an actual conflict of interest.

(2) The disclosure must be by notice in writing given to the Minister, and to each of the other members, as soon as practicable after the member becomes aware of the potential for conflict of interest.

(3) Subsection (1) applies to interests:

(a) whether direct or indirect, and whether or not pecuniary; and

(b) whether acquired before or after the member's appointment.

9B Obligation to disclose interests before deliberating on or deciding a particular matter

(1) A member (the ***discloser***) who has an interest that could conflict with the proper performance of the functions of his or her office, as they give him or her a role in the deliberations or decisions of the Commission in relation to a particular matter, must not perform that role in relation to that matter unless:

(a) he or she has disclosed that interest to each of the other members; and

(b) each of those members has consented to the discloser performing that role in relation to that matter despite the possible conflict of interest.

(2) A member, other than the Chairperson, who gives a consent under paragraph (1)(b) must, as soon as practicable, advise the Chairperson that he or she has given the consent.

(3) If an interest is disclosed under subsection (1), the Chairperson must, as soon as practicable, give the Minister a written notice:
   (a) describing the interest and the matter; and
   (b) advising the Minister whether the members have consented as mentioned in paragraph (1)(b).

(4) Subsection (1) applies to interests:
   (a) whether direct or indirect, and whether or not pecuniary; and
   (b) whether acquired before or after the discloser's appointment.

9C Other terms and conditions

A member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

9D Acting Chairperson

Acting Chairperson

(1) The Minister may appoint a person to act as the Chairperson:
   (a) during a vacancy in the office of the Chairperson, whether or not an appointment has previously been made to the office; or
   (b) during any period, or during all periods, when the Chairperson:
      (i) is absent from duty or Australia; or
      (ii) is, for any reason, unable to perform the duties of the office.

Qualifications

(2) A person is not eligible for appointment to act as the Chairperson unless the person is eligible for appointment as a member.

Note: See subsection 6(3).

Validation

(3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in connection with the appointment; or

(c) the appointment had ceased to have effect; or

(d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

Division 3—Meetings

10 Meetings of the Commission

(1) Meetings of the Commission are to be held at such times and places as the Commission determines.

(2) The Chairperson may convene a meeting of the Commission.

(3) At a meeting, 3 members is a quorum.

(4) The Chairperson is to preside at all meetings at which he or she is present.

(5) If the Chairperson is not present at a meeting, the members present must elect a member to preside.

(6) A question arising at a meeting is to be decided by a majority of the votes of the members present and voting.

(7) The member presiding at a meeting has a deliberative vote and, if there is an equality of votes, also has a casting vote.

(8) The Commission must keep a record of its proceedings.

(9) The procedure of the Commission is to be determined by the Commission.

Note: Section 33B of the *Acts Interpretation Act 1901* allows for meetings to be held by telephone or by other means.

Division 4—Export Wheat Commission Special Account

11 Export Wheat Commission Special Account

(1) The Export Wheat Commission Special Account is established by this section.

(2) The Export Wheat Commission Special Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a Special Account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to that Special Account.

12 Credits of amounts to the Export Wheat Commission Special Account

(1) There are to be credited to the Export Wheat Commission Special Account amounts equal to the wheat export charge amounts received by the Commonwealth.

(2) There are to be credited to the Export Wheat Commission Special Account amounts equal to amounts received by the Commonwealth by way of fees under subsection 57(3D).

13 Purposes of the Export Wheat Commission Special Account

The purposes of the Export Wheat Commission Special Account are as follows:

(a) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in connection with the operation of the Export Wheat Commission;

(b) paying remuneration and allowance of members;

(c) paying remuneration, and other employment-related costs and expenses, in respect of members of the staff of the Commission.

Note: See section 21 of the *Financial Management and Accountability Act 1997* (debits from Special Accounts).

Division 5—Staff

14 Staff

(1) The staff of the Commission are to be persons engaged under the *Public Service Act 1999*.

(2) For the purposes of the *Public Service Act 1999*:

(a) the Chairperson and the staff together constitute a Statutory Agency; and

(b) the Chairperson is the Head of that Statutory Agency.

15 Persons assisting the Commission

The Commission may also be assisted:

(a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); or

(b) by officers and employees of authorities of the Commonwealth;

whose services are made available to the Commission in connection with the performance of any of its functions.

Division 6—Planning and reporting obligations

16 Operational plan

(1) Before the start of each financial year, the Commission must prepare an operational plan for the financial year and give it to the Minister.

(2) The plan must include details of the strategies and policies that are to be followed by the Commission in performing its functions during the financial year.

(3) The Chairperson must keep the Minister informed about:
  (a) changes to the plan; and
  (b) matters that might affect significantly the Commission's ability to perform its functions in accordance with the plan.

(4) The Minister may give the Chairperson written guidelines that are to be used by the Chairperson in deciding whether a matter is covered by paragraph (3)(b).

17 Corporate plan

(1) The Commission must prepare a corporate plan at least once a year and give it to the Minister.

(2) The plan must cover a period of at least 3 years.

(3) The plan must include details of the following matters:
  (a) the objectives of the Commission;
  (b) the strategies and policies that are to be followed by the Commission in order to achieve those objectives;
  (c) such other matters (if any) as the Minister requires.

(4) The Chairperson must keep the Minister informed about:
  (a) changes to the plan; and
  (b) matters that might significantly affect the achievement of the objectives set out in the plan.

(5) The Minister may give the Chairperson written guidelines that are to be used by the Chairperson in deciding whether a matter is covered by paragraph (3)(c) or (4)(b).

18 Annual report

(1) The Commission must, as soon as practicable after the end of each financial year, prepare and give to the Minister a report of the Commission's operations during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*.

(2) The Minister must cause a copy of each report under this section to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Division 7—Other matters

19 Chairperson not subject to direction by the Commission on certain matters

To avoid doubt, the Chairperson is not subject to direction by the Commission in relation to the Chairperson's performance of functions, or exercise of powers, under:

(a) the *Financial Management and Accountability Act 1997*; or

(b) the *Public Service Act 1999*;

in relation to the Commission.

Part 4—Bulk export of wheat

57 Control of bulk export of wheat

(1) A person shall not export wheat unless:

(a) the Commission has given its written consent to the export of the wheat; and

(b) the export of the wheat is in accordance with the terms of that consent.

Penalty: 600 penalty units.

(1AA) The prohibition in subsection (1) does not apply to the export of wheat in bags or containers.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1AA)—see subsection 13.3(3) of the *Criminal Code*.

(1A) The prohibition in subsection (1) does not apply to nominated company B.

(2) An offence against subsection (1) is an indictable offence.

(3) The Commission's consent to the export of wheat may be limited to the export of the wheat in specified circumstances, in accordance with specified requirements or by a specified person.

(3A) Before giving a consent, the Commission must consult nominated company B.

(3B) The Commission must not give a consent without the prior approval in writing of nominated company B.

Note: Section 61 provides that this subsection does not apply to the making of a decision during the ***temporary period*** within the meaning of Part 5.

(3D) An application for a consent under this section must be accompanied by such fee (if any) as is prescribed by the regulations. The fee is payable to the Commonwealth.

(3E) The Commission must issue guidelines about the matters it will take into account in exercising its powers under this section.

(4) In proceedings for an offence against subsection (1), a certificate signed by the Chairperson and:

(a) stating that the Commission did not consent to the export of particular wheat; or

(b) setting out the terms of a consent given by the Commission;

is *prima facie* evidence of the matters set out in the certificate.

(5) The prohibition in subsection (1) is in addition to, and not in substitution for, any prohibition by or under the *Customs Act 1901* or the *Export Control Act 1982*.

(6) For the purposes of subsection 51(1) of the *Trade Practices Act 1974*, the following things are to be regarded as specified in this section and specifically authorised by this section:

(a) the export of wheat by nominated company B;

(b) anything that is done by nominated company B under this section or for the purposes of this section.

(7) Before the end of 2004, the Minister must cause an independent review to be conducted of the following matters:

(a) the operation of subsection (1A) in relation to nominated company B;

(b) the conduct of nominated company B in relation to:

(i) consultations for the purposes of subsection (3A); and

(ii) the granting or withholding of approvals for the purposes of subsection (3B);

(c) whether benefits to growers have resulted from the performance of nominated company B in relation to the export of wheat;

(d) the Authority's performance of its functions under this Act.

(8) The persons who are to conduct the review are to be appointed by the Minister.

(9) The persons who conduct the review must:

(a) be assisted by the Authority; and

(b) make use of reports under section 5C and other information collected by the Authority.

(10) The persons who conduct the review must give the Minister a report of the review before the end of 2004.

(11) The persons who conduct the review must publish a report of the review for growers before the end of 2004.

Note: Information that is protected from disclosure by subsection 5E(2) must not be included in a report for growers.

(12) The Minister must cause a copy of the report referred to in subsection (11) to be tabled in each House of the Parliament within 25 sitting days of that House after the day on which the Minister receives the report.

58 Variation of consents

(1) The Commission may vary a consent given under subsection 57(1), on request by the person to whom the consent was given.

(2) If the Commission makes a variation, the variation must be:

(a) in accordance with the request; or

(b) if not in accordance with the request—not less favourable than the consent to which the request relates.

(3) Before making a variation, the Commission:

(a) must consult nominated company B; and

(b) must take into account the matters included in any guidelines issued under subsection 57(3E).

(4) Paragraph (3)(a) does not apply to a variation if, in the opinion of the Commission, the variation is of a minor nature.

(5) Without limiting subsection (4), a variation is taken to be of a minor nature if:

(a) it relates only to the tonnage of wheat to be exported; and

(b) it varies that tonnage by not more than 500 tonnes.

(6) If the Commission makes a variation to which subsection (4) applies, the Commission must inform nominated company B of that variation as soon as practicable.

(7) A consent cannot be varied otherwise than in accordance with this section.

59 Sharing information

(1) Information (including personal information) collected by the Commission in connection with the performance of its functions under section 57 may be disclosed to another agency for the purpose of the control of wheat exports.

(2) APS employees of the administrative unit in the Department known as the Australian Quarantine and Inspection Service may provide the Commission with information (including personal information) for the purpose of the control of wheat exports.

(3) In this section:

agency has the same meaning as in section 6 of the *Privacy Act 1988*.

personal information has the same meaning as in section 6 of the *Privacy Act 1988*.

Part 5—Special rules relating to the application of Part 4 during the temporary period

60 Commission not to give or refuse consent during temporary period without agreement of Minister

(1) During the temporary period, the Commission must not make a decision under section 57 to give a consent unless the Minister has agreed in writing to the giving of the consent.

(2) During the temporary period, the Commission must not make a decision under section 57 to refuse to give a consent unless the Minister has agreed in writing to the refusal to give the consent.

(3) This section applies to a decision of the Commission made during the temporary period whether the application to which the decision relates was made before or after the beginning of the temporary period.

(4) The Commission must provide to the Minister such information relating to an application as the Minister requests.

61 Operation of subsection 57(3B) during temporary period

Subsection 57(3B) does not apply to the making of a decision by the Commission during the temporary period, whether the application to which the decision relates was made before or after the beginning of the temporary period.

62 Minister may give directions

(1) During the temporary period, the Minister may, by written notice given to the Commission, direct the Commission:

(a) to give a consent to a person who has made an application to export wheat under section 57; or

(b) to refuse to give a consent to a person who has made an application to export wheat under section 57.

(2) If the Minister gives a direction to the Commission under subsection (1), the Commission must comply with the direction.

(3) This section has effect despite any other provision of this Act.

(4) The Minister may give a direction under this section in respect of an application whether the application was made before or after the beginning of the temporary period.

63 Minister to have regard to public interest

The Minister must have regard to the public interest for the purposes of the following:

(a) deciding whether to agree under subsection 60(1) to the giving of a consent;

(b) deciding whether to refuse to agree under subsection 60(2) to the giving of a consent;

(c) deciding whether to give a direction under section 62.

64 Applications decided by the Wheat Export Authority before commencement

To avoid doubt, nothing in this Part affects an application for a consent under section 57 if, before the beginning of the temporary period, the Wheat Export Authority had made a decision to give or refuse the consent.

Note: See subsection 4(1).

65 Definitions

In this Part:

commencement day means the day on which this section commences.

temporary period means the period:

(a) beginning on the commencement day; and

(b) ending at the end of 30 June 2008.

Part 6—Non-bulk export of wheat

66 Compliance with non-bulk wheat quality assurance scheme

(1) A person commits an offence if:

(a) the person exports wheat in bags or containers; and

(b) the person contravened a requirement imposed on the person by the non-bulk wheat quality assurance scheme in relation to the export of the wheat.

Penalty: 600 penalty units.

(2) Subsection (1) does not apply if the export of the wheat occurs in circumstances specified in the regulations.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2)—see subsection 13.3(3) of the *Criminal Code*.

(3) Subsection (1) does not apply if the Commission gave its consent to the export of the wheat under subsection 57(1) before the commencement of this section.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3)—see subsection 13.3(3) of the *Criminal Code*.

67 Non-bulk wheat quality assurance scheme

(1) The Commission may, by legislative instrument, formulate a scheme directed towards the achievement of the objective of ensuring that wheat exported in bags or containers corresponds with the relevant contractual description of the wheat.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The scheme under subsection (1) is to be known as the ***non-bulk wheat quality assurance scheme***.

(3) The non-bulk wheat quality assurance scheme may:

(a) provide for the accreditation of persons or bodies as accredited testing laboratories; and

(b) require exporters of wheat in bags or containers:

(i) to obtain a certificate from an accredited testing laboratory; and

(ii) to do so under a contract entered into with the accredited testing laboratory; and

(c) set out other requirements to be complied with by exporters in relation to the export of wheat in bags or containers; and

(d) set out requirements that must be complied with by accredited testing laboratories in relation to the issue of certificates.

(4) The non-bulk wheat quality assurance scheme may provide that an accredited testing laboratory may charge a fee for issuing a certificate under the scheme. A fee must not be such as to amount to taxation.

(5) The non-bulk wheat quality assurance scheme may make provision in relation to a matter by conferring a power to make a decision of an administrative character on the Commission.

(6) The non-bulk wheat quality assurance scheme may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing:

(a) as in force or existing at a particular time; or

(b) as in force or existing from time to time.

(7) Subsection (6) has effect despite anything in subsection 14(2) of the *Legislative Instruments Act 2003*.

(8) If the non-bulk wheat quality assurance scheme makes provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in any other instrument or writing, the Commission must ensure that the text of the matter applied, adopted or incorporated is made publicly available on its Internet site.

(9) Subsections (3), (4), (5) and (6) do not limit subsection (1).

(10) Before exercising a power conferred by subsection (1), the Commission must consult the Minister.

Note: For other consultation requirements, see Part 3 of the *Legislative Instruments Act 2003*.

Part 7—Miscellaneous

84 Nominated company B obliged to purchase wheat

(1) Nominated company B must purchase all wheat that:

(a) is offered to the company for inclusion in a pool operated by the company; and

(b) meets the standards required by the company.

(2) The purchase price must be calculated by reference to the net return for the pool in which the wheat is included.

(3) Subsection (1) does not apply to any offer made after subsection 57(1) commences to apply to nominated company B.

88 Operation of certain State and Territory laws

(1) In this section:

corporation means a trading corporation formed within the limits of the Commonwealth.

sale contract means a contract for the sale of grain or for the growing of grain and the sale of the grain, being a contract to which a corporation is a party and which is entered into by a corporation in the course of, or for the purposes of:

(a) the export of the grain; or

(b) trade and commerce:

(i) among the States;

(ii) between a State and a Territory or between Territories; or

(iii) within a Territory.

service contract means a contract, agreement or arrangement for the storage, handling or transport of grain for a corporation, being a contract to which a corporation is a party and which is entered into by the corporation in the course of, or for the purposes of:

(a) the export of the grain; or

(b) trade and commerce:

(i) among the States;

(ii) between a State and a Territory or between Territories; or

(iii) within a Territory.

(2) A sale contract or a service contract is not rendered unlawful or unenforceable by any prescribed State or Territory enactment.

(3) A party to a sale contract or a service contract does not incur any liability, penalty or forfeiture under a prescribed State or Territory enactment by virtue only of having entered into the contract.

(4) Nothing in any prescribed State or Territory enactment operates to prevent a party to a sale contract or a service contract discharging obligations under the contract according to the terms of the contract.

(5) In the case of a sale contract, nothing in any prescribed State or Territory enactment operates to prevent the property in the grain passing to the purchaser according to the terms of the contract.

(6) A person who, under a contract (including a contract of service), agreement or arrangement with a party to a sale contract or a service contract, does anything on behalf of that party in the discharge of an obligation under the sale contract or the service contract does not incur any liability, penalty or forfeiture under any prescribed State or Territory enactment by virtue only of having done that thing, and the contract, agreement or arrangement between that person and the party is not rendered unlawful or unenforceable by any prescribed State or Territory enactment.

(7) A corporation does not incur any liability, penalty or forfeiture under a prescribed State or Territory enactment by virtue only of storing, handling or transporting grain for a purpose referred to in the definition of ***service contract*** in subsection (1).

(8) Nothing in any prescribed State or Territory enactment prevents a corporation storing, handling or transporting grain for a purpose referred to in the definition of ***service contract*** in subsection (1).

(9) A person who, under a contract (including a contract of service), agreement or arrangement with a corporation does anything for the corporation in, or in connection with, the storage, handling or transport of grain by the corporation does not incur any liability,

penalty or forfeiture under any prescribed State or Territory enactment by virtue only of having done that thing, and the contract, agreement or arrangement between that person and the corporation is not rendered unlawful or unenforceable by any prescribed State or Territory enactment.

(10) Nothing in any prescribed State or Territory enactment operates to prevent a party to a contract, agreement or arrangement referred to in subsection (6) or (9) discharging obligations under the contract, agreement or arrangement according to its terms.

(11) Subsection (5) does not affect the rights of the holder of a security over grain for moneys owing.

(12) Subject to subsection (13), a reference in this section to a prescribed State or Territory enactment is a reference to:

(a) a State or Territory enactment declared by the regulations to be a prescribed State or Territory enactment for the purposes of this section; or

(b) a State or Territory enactment included in a class of State or Territory enactments declared by the regulations to be prescribed State or Territory enactments for the purposes of this section.

(13) The regulations shall not prescribe a State or Territory enactment except in relation to the storage, handling and transport of grain or the marketing of wheat.

(14) The regulations may provide that a State or Territory enactment, or a State or Territory enactment included in a class of State or Territory enactments, is a prescribed State or Territory enactment only to the extent, or only in the circumstances, specified in the regulations.

(15) In this section:

State or Territory enactment means:

(a) a State Act;

(b) an enactment of a Territory; or

(c) an instrument made or issued under such an Act or enactment.

94 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations prescribing a State or Territory enactment for the purposes of section 88 shall not be made unless the Minister has notified the Minister of the State or Territory responsible for the administration of the enactment of the subject-matter of the regulations.

Notes to the *Wheat Marketing Act 1989*

Note 1

The *Wheat Marketing Act 1989* as shown in this compilation comprises Act No. 58, 1989 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Wheat Marketing Amendment Act 2007, see* Act No. 108, 2007, Schedule 6.

All relevant information pertaining to application, saving or transitional provisions prior to 18 September 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Wheat Marketing Act 1989	58, 1989	15 June 1989	Ss. 1–79, 84, 85(3)–(8) and 87–94: 1 July 1989 Remainder: 1 July 1989 (*see Gazette* 1989, No. S223)	
Primary Industries and Energy Legislation Amendment Act (No. 3) 1989	16, 1990	17 Jan 1990	S. 29(3): 1 July 1989 *(a)*	—
Primary Industries and Energy Legislation Amendment Act 1990	134, 1990	28 Dec 1990	Ss. 34–37: 1 Oct 1990 Remainder: Royal Assent	Ss. 43(2) and 47(2)
Primary Industries Levies and Charges Collection (Consequential Provisions) Act 1991	26, 1991	1 Mar 1991	1 July 1991 (*see* s. 2)	S. 5
Primary Industries and Energy Legislation Amendment Act 1992	17, 1992	10 Apr 1992	10 Apr 1992	—
Territories Law Reform Act 1992	104, 1992	30 June 1992	Ss. 1, 2, 25 and 26: Royal Assent Ss. 3–8, 11–18, 20, 23 and 24: 1 July 1992 Remainder: 29 June 1993 (*see Gazette* 1993, No. S196)	—
Wheat Marketing Amendment Act 1992	154, 1992	11 Dec 1992	11 Dec 1992	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Primary Industries and Energy Legislation Amendment Act 1993	94, 1993	16 Dec 1993	Ss. 47–65: 1 Jan 1994 S. 69(1)(b): 1 July 1989 Remainder: Royal Assent	S. 69(2) and (3)
Primary Industries and Energy Legislation Amendment Act (No. 2) 1994	129, 1994	21 Oct 1994	S. 3: Royal Assent *(b)*	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 4 (items 152-154): Royal Assent *(c)*	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Schedule 2 (items 1272-1294): 1 Jan 1998 (*see Gazette* 1997, No. GN49) *(d)*	—
Wheat Marketing Amendment Act 1997	194, 1997	8 Dec 1997	Ss. 20–28 and Schedule 1 (items 26–137): 1 June 1998 (*see Gazette* 1998, No. GN21) Schedule 1 (items 138–144): 1 July 1999 Remainder: Royal Assent	Sch. 1 (items 25, 130–137)
Primary Industries and Energy Legislation Amendment Act (No. 1) 1998	102, 1998	30 July 1998	30 July 1998	—
Wheat Marketing Legislation Amendment Act 1998	103, 1998	30 July 1998	Schedule 1 (items 1–22): 1 July 1999 Remainder: 27 Aug 1998	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Schedule 10 (item 122): 13 Mar 2000 (*see Gazette* 2000, No. S114) *(e)*	—
Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001	115, 2001	18 Sept 2001	16 Oct 2001	S. 4 [*see* Table A]
Wheat Marketing Amendment Act 2003	78, 2003	22 July 2003	22 July 2003	S. 4 [*see* Table A]
Wheat Marketing Amendment Act 2006	157, 2006	8 Dec 2006	9 Dec 2006	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Wheat Marketing Amendment Act 2007	108, 2007	28 June 2007	Schedule 3: [*see* Note 2] Schedule 4: 27 Aug 2007 Schedules 5 and 6: 1 Oct 2007 Remainder: Royal Assent	Sch. 3 (items 18, 19) [*see* Table A] Sch. 6 [*see* Note 1]

Act Notes

(a) The *Wheat Marketing Act 1989* was amended by section 29(3) only of the *Primary Industries and Energy Legislation Amendment Act (No. 3) 1989*, subsection 2(7) of which provides as follows:

> (7) Subsection 29(3) and Part 3 of the Schedule are to be taken to have commenced on 1 July 1989.

(b) The *Wheat Marketing Act 1989* was amended by section 3 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1994*, subsection 2(1) of which provides as follows:

> (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(c) The *Wheat Marketing Act 1989* was amended by Schedule 4 (items 152–154) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:

> (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(d) The *Wheat Marketing Act 1989* was amended by Schedule 2 (items 1272–1294) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997,* subsection 2(2) of which provides as follows:

> (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.

(e) The *Wheat Marketing Act 1989* was amended by Schedule 10 (item 122) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:

> (2) The following provisions commence on a day or days to be fixed by Proclamation:
>
> (c) the items in Schedules 10, 11 and 12.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	am. No. 103, 1998
Part 1	
S. 2	rep. No. 103, 1998
S. 3	am. No. 16, 1990; Nos. 104 and 154, 1992; No. 129, 1994; Nos. 152 and 194, 1997 rs. No. 103, 1998 am. No. 78, 2003; No. 108, 2007
S. 3A	ad. No. 194, 1997 rep. No. 103, 1998 ad. No. 115, 2001
Part 2	
Heading to Part 2	rs. No. 108, 2007
Part 2	rs. No. 103, 1998
Division 1	
Heading to s. 4	rs. No. 108, 2007
S. 4	rs. No. 103, 1998 am. No. 108, 2007
Note to s. 4(2)	ad. No. 152, 1997 rep. No. 103, 1998
Heading to s. 5	am. No. 108, 2007
S. 5	am. No. 154, 1992 rs. No. 194, 1997; No. 103, 1998 am. No. 108, 2007
S. 5AA	ad. No. 108, 2007
Heading to s. 5A	am. No. 108, 2007
S. 5A	ad. No. 78, 2003 am. No. 108, 2007
Heading to s. 5B	am. No. 108, 2007
Ss. 5B–5D	ad. No. 78, 2003 am. No. 108, 2007
Ss. 5DA–5DC	ad. No. 108, 2007 am. No. 108, 2007
S. 5E	ad. No. 78, 2003 am. No. 108, 2007
Division 2	
Heading to s. 6	am. No. 108, 2007
S. 6	am. No. 154, 1992; No. 94, 1993; No. 194, 1997 rs. No. 103, 1998 am. No. 108, 2007
S. 7	am. Nos. 104 and 154, 1992; No. 94, 1993; No. 194, 1997 rs. No. 103, 1998; No. 108, 2007

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 8	am. No. 152, 1997 rs. No. 103, 1998 am. No. 156, 1999; No. 108, 2007
S. 9	rs. No. 103, 1998
Ss. 9A–9D	ad. No. 108, 2007
Division 3	
Heading to s. 10	am. No. 108, 2007
S. 10	rs. No. 103, 1998 am. No. 108, 2007
Division 4	
Div. 4 of Part 2	rs. No. 108, 2007
Ss. 10A, 10B	ad. No. 78, 2003 rep. No. 108, 2007
S. 11	am. No. 152, 1997 rs. No. 103, 1998 am. No. 78, 2003 rs. No. 108, 2007
S. 12	am. No. 194, 1997; No. 102, 1998 rs. No. 103, 1998; No. 108, 2007
S. 13	am. No. 154, 1992; No. 194, 1997 rs. No. 103, 1998; No. 108, 2007
Division 5	
Heading to Div. 5 of Part 2	rs. No. 108, 2007
S. 14	rs. No. 103, 1998; No. 108, 2007
S. 15	am. No. 129, 1994; Nos. 152 and 194, 1997 rs. No. 103, 1998; No. 108, 2007
Note to s. 15	ad. No. 152, 1997 rep. No. 103, 1998
S. 15A	ad. No. 194, 1997 rep. No. 103, 1998
Division 6	
Heading to Div. 6 of Part 2	ad. No. 108, 2007
S. 16	am. No. 152, 1997 rs. No. 103, 1998 am. No. 108, 2007
Note to s. 16	ad. No. 152, 1997 rep. No. 103, 1998
S. 17	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 108, 2007
S. 18	rep. No. 103, 1998 ad. No. 108, 2007
Division 7	
Div. 7 of Part 2	ad. No. 108, 2007
S. 19	rep. No. 103, 1998 ad. No. 108, 2007

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 20	am. Nos. 152 and 194, 1997 rep. No. 103, 1998
S. 21	am. No. 152, 1997 rep. No. 103, 1998
Ss. 22, 23	rep. No. 103, 1998
S. 24	am. No. 43, 1996 rep. No. 103, 1998
S. 25	rep. No. 103, 1998
S. 26	am. No. 194, 1997 rep. No. 103, 1998
Heading to s. 26A	rs. No. 194, 1997 rep. No. 103, 1998
S. 26A	ad. No. 94, 1993 am. No. 194, 1997 rep. No. 103, 1998
Div. 3 of Part 2	rep. No. 194, 1997
Ss. 27–34	rep. No. 194, 1997
S. 35	am. No. 43, 1996 rep. No. 194, 1997
Ss. 36–43	rep. No. 194, 1997
S. 44	am. No. 194, 1997; No. 102, 1998 rep. No. 103, 1998
S. 45	am. No. 43, 1996; No. 194, 1997; No. 102, 1998 rep. No. 103, 1998
S. 46	am. No. 194, 1997 rep. No. 103, 1998
Ss. 47, 48	rep. No. 103, 1998
Part 3	rep. No. 103, 1998
S. 49	am. No. 17, 1992; No. 194, 1997 rep. No. 103, 1998
Ss. 50–53	rep. No. 103, 1998
S. 54	am. No. 17, 1992; No. 194, 1997 rep. No. 103, 1998
S. 55	rs. No. 17, 1992 rep. No. 103, 1998
Part 3A	ad. No. 194, 1997 rep. No. 103, 1998
Ss. 55A–55V	ad. No. 194, 1997 rep. No. 103, 1998
S. 56	rep. No. 17, 1992
Part 4	
Heading to Part 4	rs. No. 103, 1998; No. 108, 2007
Heading to Div. 1 of Part 4	rep. No. 103, 1998
Heading to s. 57	am. No. 108, 2007
S. 57	am. No. 103, 1998; No. 78, 2003; No. 108, 2007
Note to s. 57(3B)	ad. No. 157, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Div. 1A of Part 4	ad. No. 194, 1997 rep. No. 103, 1998
S. 57A	ad. No. 194, 1997 rep. No. 103, 1998
Heading to Div. 2 of Part 4	rs. No. 194, 1997 rep. No. 103, 1998
Div. 2 of Part 4	rep. No. 103, 1998
Ss. 58, 59	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 78, 2003 am. No. 108, 2007
Div. 3 of Part 4	rep. No. 103, 1998
Part 5	
Part 5	rep. No. 103, 1998 ad. No. 157, 2006
Heading to s. 60	am. No. 108, 2007
S. 60	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006 am. No. 108, 2007
S. 61	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006 am. No. 108, 2007
S. 62	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006 am. No. 108, 2007
S. 63	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006
Heading to s. 64	am. No. 108, 2007
S. 64	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006 am. No. 108, 2007
Note to s. 64	ad. No. 108, 2007
S. 65	am. No. 194, 1997 rep. No. 103, 1998 ad. No. 157, 2006 am. No. 108, 2007
S. 65A	ad. No. 94, 1993 am. No. 194, 1997 rep. No. 103, 1998
Part 6	
Part 6	rep. No. 103, 1998 ad. No. 108, 2007

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 66	am. No. 94, 1993; No. 194, 1997 rep. No. 103, 1998 ad. No. 108, 2007 am. No. 108, 2007
S. 66A	ad. No. 194, 1997 rep. No. 103, 1998
Heading to s. 67	rs. No. 152, 1997 rep. No. 103, 1998 ad. No. 108, 2007
S. 67	am. No. 152, 1997 rs. No. 194, 1997 rep. No. 103, 1998 ad. No. 108, 2007 am. No. 108, 2007
S. 68	rep. No. 152, 1997
S. 69	am. Nos. 152 and 194, 1997 rep. No. 103, 1998
Heading to s. 70	am. No. 152, 1997 rep. No. 103, 1998
S. 70	am. No. 152, 1997 rs. No. 194, 1997 rep. No. 103, 1998
S. 71	rs. No. 16, 1990 am. No. 154, 1992; No. 194, 1997 rep. No. 103, 1998
S. 71A	ad. No. 16, 1990 rep. No. 194, 1997
S. 71B	ad. No. 16, 1990 am. No. 154, 1992; No. 194, 1997 rep. No. 103, 1998
S. 71C	ad. No. 16, 1990 rs. No. 194, 1997 rep. No. 103, 1998
S. 74	am. No. 16, 1990; No. 154, 1992; No. 194, 1997 rep. No. 103, 1998
S. 75	rep. No. 194, 1997
S. 76	rep. No. 103, 1998
Heading to s. 77	rs. No. 194, 1997 rep. No. 103, 1998
S. 77	am. No. 16, 1990; No. 194, 1997 rep. No. 103, 1998
S. 77A	ad. No. 194, 1997 rep. No. 103, 1998
S. 78	am. No. 16, 1990; No. 154, 1992; No. 194, 1997 rep. No. 103, 1998
S. 79	am. No. 16, 1990; No. 194, 1997 rep. No. 103, 1998
S. 80	rep. No. 103, 1998

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 81, 82	am. No. 154, 1992; No. 194, 1997 rep. No. 103, 1998
S. 83	rs. No. 134, 1990 rep. No. 103, 1998
Part 7	
S. 84	am. No. 134, 1990; No. 26, 1991; No. 194, 1997; No. 194, 1997 rs. No. 103, 1998
S. 85	am. No. 134, 1990; No. 194, 1997 rep. No. 103, 1998
S. 86	am. No. 194, 1997 rep. No. 103, 1998
S. 87	am. No. 16, 1990 rep. No. 134, 1990
S. 88	am. No. 103, 1998
S. 88A	ad. No. 152, 1997 rep. No. 103, 1998
S. 89	am. No. 17, 1992; Nos. 152 and 194, 1997 rep. No. 103, 1998
S. 90	am. No. 194, 1997 rep. No. 103, 1998
Ss. 91, 92	rep. No. 103, 1998
S. 93	am. No. 152, 1997 rep. No. 103, 1998
S. 94	am. No. 134, 1990; No. 129, 1994; No. 194, 1997; No. 103, 1998
Schedule	rep. No. 103, 1998

Note 2

Wheat Marketing Amendment Act 2007 (No. 108, 2007)

The following amendments commence on 1 March 2008:

Schedule 3

1 Section 3

Insert:

designated company has the meaning given by section 3AA.

2 After section 3

Insert:

3AA Designated company

Declaration

(1) The Minister may, by writing, declare that, with effect from a specified time, a specified company is the ***designated company*** for the purposes of this Act.

(2) The specified time must be after the declaration is made.

(3) At the time the declaration is made, the company must be registered under the *Corporations Act 2001*.

(4) The Minister must cause a copy of the declaration to be published on the Internet.

(5) The declaration is not a legislative instrument.

Revocation of declaration

(6) The Minister may, by writing, revoke a declaration made under subsection (1), with effect from a specified time.

(7) The specified time must be after the revocation is made.

(8) The Minister must cause a copy of the revocation to be published on the Internet.

Note 2

(9) The revocation is not a legislative instrument.

(10) Subsection (6) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

(11) If:

(a) a declaration is in force under subsection (1) in relation to a company; and

(b) the company ceases to be registered under the *Corporations Act 2001*;

the declaration is taken to have been revoked at the time of the cessation.

Nominated company B

(12) Until the first declaration under subsection (1) takes effect, nominated company B is the ***designated company*** for the purposes of this Act.

Sunset

(13) After 30 June 2008, the Minister must not exercise a power conferred by subsection (1) or (6).

3 Paragraph 5(1)(b)

Omit "nominated company B's", substitute "the designated company's".

4 Subsections 5A(1) and (2)

Omit "nominated company B", substitute "the designated company".

5 Paragraphs 5C(1)(a) and (3)(a)

Omit "nominated company B's", substitute "the designated company's".

Note: The heading to section 5C is altered by omitting "**nominated company B's**" and substituting "**the designated company's**".

6 At the end of section 5C (before the note)

Add:

Replacement of designated company

(5) If there are different designated companies during different parts of a financial year, subsections (1) and (3) have effect, in relation to the year, as if the references in those subsections to the designated company's performance for the year were read as a reference to each designated company's performance for the relevant part of the year.

Nominated company B

(6) For the purposes of the application of this section to the financial year in which this subsection commenced:

(a) if nominated company B ceased to be the designated company during the year—nominated company B is taken to have been the designated company throughout so much of the year as occurred before the cessation; or

(b) in any other case—nominated company B is taken to have been the designated company throughout the year.

7 Subsection 5D(1)

Before "nominated company B" (first and second occurring), insert "the designated company or".

8 Paragraph 5D(1)(b)

Before "nominated company B", insert "the designated company,".

9 Paragraphs 5DC(2)(b), (c), (d) and (e)

Omit "nominated company B", substitute "the designated company".

10 Paragraph 5E(1)(f)

After "under", insert "repealed".

11 Paragraph 5E(3)(e)

Omit "*1984*; or", substitute "*1984*.".

Note 2

12 Paragraph 5E(3)(f)

Repeal the paragraph.

13 Subsections 57(1A), (3A), (3B) and (6)

Omit "nominated company B" (wherever occurring), substitute "the designated company".

13A After subsection 57(3B)

Insert:

(3C) Subsection (3B) does not apply at a time after 30 June 2008 if, at that time:

(a) nominated company B; or

(b) a related body corporate of nominated company B;

is the designated company.

14 Subsections 57(7) to (12)

Repeal the subsections.

15 Subsections 58(3) and (6)

Omit "nominated company B", substitute "the designated company".

16 Subsection 84(1)

Omit "Nominated company B", substitute "The designated company".

Note: The heading to section 84 is altered by omitting "**Nominated company B**" and substituting "**Designated company**".

17 Subsection 84(3)

Omit "nominated company B", substitute "the designated company".

As at 1 October 2007 the amendments are not incorporated in this compilation.

Table A

Application, saving or transitional provisions

Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001 (No. 115, 2001)

4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Wheat Marketing Amendment Act 2003 (No. 78, 2003)

4 Application

The Authority must prepare and publish the first reports under section 5C of the *Wheat Marketing Act 1989* as amended by this Act for the financial year ending on 30 June 2003. However, the Authority is not required to publish a report under section 5C earlier than 4 months after the commencement of this Act.

Table A

Wheat Marketing Amendment Act 2007 (No. 108, 2007)

The following provisions commence on 1 March 2008:

Schedule 3

18 Transitional—section 3AA of the *Wheat Marketing Act 1989*

Subsection 4(1) of the *Acts Interpretation Act 1901* does not apply to a power conferred on the Minister by section 3AA of the *Wheat Marketing Act 1989*.

19 Transitional—investigations and reports under section 5DC of the *Wheat Marketing Act 1989*

(1) This item applies to an investigation under section 5DC of the *Wheat Marketing Act 1989* if:

(a) the investigation started before the commencement of this item; and

(b) the investigation relates to a matter concerning nominated company B.

(2) Despite the amendments of section 5DC of the *Wheat Marketing Act 1989* made by this Schedule, that section continues to apply, in relation to:

(a) the investigation; and

(b) a report about the investigation;

as if those amendments had not been made.