

EXPLANATORY STATEMENT

STATUTORY RULES 1989 NO. 172

Issued by the Authority of the Minister for Primary Industries
and Energy

WHEAT INDUSTRY FUND LEVY COLLECTION ACT 1989

WHEAT INDUSTRY FUND LEVY COLLECTION REGULATIONS

The Wheat Industry Fund Levy Collection Act 1989 (the Act),
which received Royal Assent on 31 May 1989 and came into
operation on 1 July 1989, provides for the collection of levy
imposed under provisions of the Wheat Industry Fund Levy Act
1989.

Subsection 21(1) of the Act provides that the Governor-General
may make Regulations, not inconsistent with this Act,
prescribing 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.

Subsection 21(2) lists those things which may be prescribed by Regulation including providing for the timing and manner of payment of levies and other amounts payable under the Act, the keeping appropriate records and furnishing returns and the prescribing of penalties.

Section 4 of the Acts Interpretation Act 1901 provides that where an Act is expressed to confer power to make regulations, unless the contrary intention appears the power may be exercised and anything may be done for the purpose of enabling the exercise of the power, or of bringing the instrument into effect, before the Act concerned comes into operation, as if it had come into operation.

Subsection 3(1) of the Act provides that the term "value" means sales value as ascertained in accordance with the Regulations. However, subsection 21(3) provides that, in the making of Regulations for the purpose of defining "value", the Governor-General shall take into consideration any relevant recommendation made to the Minister by the Grains Council of Australia. This requirement has been complied with.

Details of the proposed Regulations are given in Attachment A.

ATTACHMENT A

Details of the Proposed Regulations

Regulation 1 provides that the Regulations may be cited as the Wheat Industry Fund Levy Collection Regulations.

Regulation 2 provides that the definition of various words and expressions used in the Regulations is to be the same as established in the Act.

Regulation 3 provides a definition and interpretation for the term "sale value of wheat" as provided for under subsection 3(1) of the Act. The definition provides a means of determining an equitable figure to be applied as "value" to wheat regardless of the method of disposal or sale of the wheat. The definition covers the circumstances where sales are made to the Australian Wheat Board (AWB) for inclusion in the AWB's pooling operations, cash sales to the AWB or other traders, and situations where no sales documentation or invoice exists.

Regulation 4 provides that levy and other monies payable under the Act shall be paid to the Collector of Public Moneys in the Department in Canberra.

Regulation 5 provides that levy payments in respect of wheat sold to the AWB for which a pool return is to be received shall be made 28 days following the quarter in which each pool return payment is received.

Regulation 6 provides that purchasers or receivers of wheat must provide a return containing specified particulars to the Secretary of the Department within 28 days of the end of the quarter to which the information relates. The regulation specifies the particulars to be contained in the return.

Regulation 7 provides that purchasers or receivers of wheat must keep appropriate records of the value of wheat purchased or received in each quarter and by State, and the State in which the wheat was produced. The regulation also provides for a penalty to apply for non-observance of this requirement.

Regulation 8 provides for a person required to sign any declaration or document under the Regulations, to appoint an authorised agent to sign the document on the person's behalf. The form of the authorisation is given in Schedule 1 of the Regulations.

Regulation 9 provides for a document required to be signed by a person, body corporate or partnership to be signed by certain persons authorised by the person, body corporate or partnership.

Regulation 10 provides that a warrant to enter premises under section 14 of the Act may be in the form given in Schedule 2 of the Regulations.

SR No.199/89