WHEAT MARKETING AMENDMENT BILL 2006

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Agriculture, Fisheries and Forestry, the Hon Peter McGauran MP)
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OUTLINE

The Wheat Marketing Act 1989 (the Act) establishes the Wheat Export Authority (WEA) and defines the arrangements for controlling the export of wheat from Australia. This Bill is required to enact temporary arrangements in the enabling legislation.

The purpose of this Bill is to amend the Act through the transfer, on a temporary basis, of the right to veto bulk wheat export applications from AWB (International) Ltd (AWBI) to the Minister for Agriculture, Fisheries and Forestry (the Minister). This transfer will be effective until 30 June 2007. This is achieved through including a new part in the Act.

These changes do not amend the functions or objectives of the WEA, or AWBI’s authority to engage in export activities. The WEA will continue to control the export of bulk wheat but now requires the agreement of the Minister for each application. The WEA will continue to monitor the performance of AWBI. There will be no change to the considerations given by the WEA to export applications under section 5A of the Act. AWBI will continue to have exemption from the export controls and as a result will continue to be obliged to purchase wheat that is offered to the company and meets its receival standards.

The changes mean that the WEA will not be required, during the period to 30 June 2007, to have written approval from AWBI before making a decision on bulk export applications. Instead, the WEA will need to seek the agreement of the Minister before approving or rejecting an application for bulk exports. In cases where the Minister does not agree with the WEA then he is able to direct it to approve or reject a bulk export application. In doing so, the Minister will have broad-ranging discretion in considering the bulk export applications to permit the Government to assess whether allowing bulk exports by traders other than AWBI will be in the public interest. This is a different requirement to that placed on the WEA in making its initial assessment of an application against section 5A of the Act. This approach allows greater flexibility in the drought affected harvest while the arrangements are given more complete consideration by the Government.

This Bill will not alter the current arrangements for the WEA’s consideration and granting of consents for the export of wheat in bags and containers. This will ensure that traders continue to develop niche and other markets within the single desk framework for the benefit of growers and the industry.

FINANCIAL IMPACT STATEMENT

The Bill will have no financial impact.
NOTES ON CLAUSES

Clause 1 – Short title

Clause 1 is a formal provision specifying the short title.

Clause 2 – Commencement

This clause provides for the Act to commence on the day after it receives the Royal Assent.

Clause 3 – Schedule(s)

This clause advises that the amendments being made to the *Wheat Marketing Act 1989* are contained in Schedule 1.

Schedule 1 – Amendment of the Wheat Marketing Act 1989

Part 5 – Special rules relating to the application of Part 4

This part provides for the temporary application of new arrangements for the control of bulk exports. The definitions provide for the temporary period to be from the commencement date (day after Royal Assent) to 30 June 2007.

Following 30 June 2007, the pre-existing arrangements, where AWBI is required to give prior written approval to the WEA for other traders to export in bulk and there is no role for the Minister in approving exports, would be restored without the need for further amendment to the Act.

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

This section requires the WEA to not approve or reject an application to export wheat in bulk without the agreement of the Minister. This is in lieu of the WEA seeking the written approval of Nominated Company B (AWBI) under subsection 57(3B), which is temporarily suspended under these amendments.

This section also requires the WEA to provide any necessary information to the Minister to assist him or her in considering the decision of the WEA and whether to agree or disagree with an assessment against a public interest test (see section 63 below).

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

This section gives effect to the temporary suspension of the requirement for the WEA to seek written agreement of AWBI before granting a consent for wheat exports in bulk. The intent of this section is to temporarily remove AWBI’s bulk veto power.
Section 62 Minister may give directions

This section provides the Minister with the capacity to direct the WEA to approve or reject an application to export wheat in bulk. The Minister is able to have a different view to the WEA as to whether a bulk export application should be approved or rejected and to require the WEA to act in accordance with the Minister’s view.

In accordance with section 64, under subsection 62(4) the Minister’s power to issue a direction to the WEA in the case of applications made before the beginning of the temporary period only applies to those applications where no decision has been made by the WEA to approve or reject the application.

Section 63 Minister to have regard to public interest

In giving a direction to the WEA to approve or reject a bulk export application under section 62 the Minister is to have regard to the public interest.

Section 64 Applications decided by the Authority before commencement

This section specifies that the temporary arrangements only apply to bulk export applications received after the beginning of the temporary period and applications already received by the WEA if it has not yet made a decision on those applications. If the WEA has already made a decision then the application is not able to be considered by the Minister under the temporary arrangements.