

EXPLANATORY STATEMENT

STATUTORY RULES 1990 No.27

Issued by the Authority of the Minister of State for Resources

WHEAT MARKETING ACT 1989

WHEAT MARKETING REGULATIONS

Section 94 of the Wheat Marketing Act 1989 (the Act) provides for regulations to be made which prescribe state enactments in the areas of wheat marketing and grain storage, handling and transport.

The prescription will enable the Australian Wheat Board (under subsection 7(4) of the Act) and trading Corporations (under section 88 of the Act) to enter into contracts, agreements or arrangements for the marketing of wheat or storage, handling and transport of grain without incurring any liability, penalty or forfeiture under those state enactments where the grain is sold inter-state or is destined for export. The regulations do not apply to wheat or other grain traded intra-state.

The legislative provisions in question were included in the Act following the Royal Commission into Grain Storage, Handling and Transport which submitted its report in February 1988. The Regulations are based on a concern that the highly regulated system of grain handling and distribution in most states limits the ability of grain producers, merchants and marketing authorities to choose the least cost combinations of grain storage, handling and transport services. These state enactments include:

- the sole receivership rights bestowed on state grain handling authorities which have the effect of limiting grain producers to delivering their wheat to nominated receival facilities;
- legislation and/or policies adopted in the issuing of commercial vehicle licences or permits which either explicitly or implicitly require the transport of grain by rail except for short distances; and
- legislation which allows the establishment of port handling monopolies for export grains.

The Regulations also address measures which have the potential for states to thwart the deregulation of the domestic wheat market and to retain sole receivership arrangements established under state acts insofar as these apply to wheat marketing. Thus wheat marketing has been addressed separately in the legislation to ensure that state marketing authorities may continue to operate effectively arrangements for the marketing of grains other than wheat.

State Ministers responsible for the administration of the enactments prescribed have been notified of the subject-matter of the proposed Regulations as required under sub-section 94(2) of the Wheat Marketing Act 1989.

An explanation of the state enactments covered by the Regulations are as follows:

Sub-regulation 3(1) covers the storage, handling and transport of grain and specific provisions are as follows:

Paragraph 3(1)(a): Sections 10 and 12 of the Grain Elevators Act 1958 of Victoria require that all wheat and barley produced in Victoria be delivered to the Grain Elevators Board and thereby facilitate the maintenance of a grain handling monopoly, including at ports.

Paragraph 3(1)(b): Sections 188 and 189 and Schedule 8 of the Transport Act 1983 of Victoria preclude the carriage of commercial goods (in this case grain) beyond distances specified in Schedule 8 unless a permit is obtained.

Paragraph 3(1)(c): Section 26 of the Queensland Grain Handling Act 1983 gives exclusive right to the state handling authority (Bulk Grains Queensland) to store and handle declared grain that is intended to be exported through particular ports.

- Paragraph 3(1)(d): Section 49 of the Queensland State Transport Act 1960 classifies all grains as restricted goods and, as such, they cannot be transported by road from a farm for more than 40 km without a permit nor more than 120 km from a Bulk Grains Queensland facility.
- Paragraph 3(1)(e): Section 39 of the Bulk Handling Act 1967 of Western Australia nominates the Co-operative Bulk Handling Authority as the sole receiver of bulk grains.
- Paragraph 3(1)(f): Section 34 of the Grain Marketing Act 1975 of Western Australia provides that the Grain Pool may license a person to receive and handle grain on its behalf and, inter alia, that Co-operative Bulk Handling Limited is an authorised receiver.

Regulation 3(1)(g): Sections 33-42 of the Transport Co-ordination Act 1966 of Western Australia provide for the licensing of certain commercial vehicles. However, in accordance with a Ministerial direction, licences are not issued for vehicles carrying grain.

Paragraph 3(1)(h): Section 12 of the Bulk Handling of Grain Act 1955, of South Australia provides that South Australian Co-operative Bulk Handling Ltd is the sole receiver, storer, and handler of bulk wheat with sole rights to contract for transport and delivery of wheat.

Sub-regulation 3(2) addresses state enactments which affect the marketing of wheat. It includes provisions which prescribe the same state enactments as are contained in paragraphs 3(1)(a), (e), (f) and (h) which have the effect of requiring wheat to be delivered to, or be handled by a sole receiver. It also includes paragraph 3(2)(b), which refers to vesting of ownership of the Queensland wheat crop in the State Wheat Board under sections 3B and 6 of the Wheat Pool Act 1920 and thus limits growers in choosing selling options for the wheat they produce.

Regulation 4 will ensure that key organisations and the states have the opportunity to put their views on the effects of the regulations after a reasonable period of operation.

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