

Wheat Marketing Regulations (Amendment) 1994 No. 458

EXPLANATORY STATEMENT

STATUTORY RULES 1994 No. 458

Issued by Authority of the Minister for Primary Industries and Energy

Wheat Marketing Act 1989

Wheat Marketing Regulations (Amendment)

Subsection 94(1) of the Wheat Marketing Act 1989 (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

The definition of "grain" in subsection 3(1) of the Act, was amended by the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1994*, which received Royal Assent on 21 October 1994, to provide that:

- (i) the Australian Wheat Board (AWB) can conduct the limited functions of research, seed testing and seed certification (value-adding activities) on pasture seeds, horticultural seeds and tree seeds, or any other seeds declared by the regulations (paragraphs (a) and (b) in the definition); and
- (ii) the AWB can undertake all its functions on the products specified in the definition (all the common cereals, oilseeds and grain legumes, as well as rice, millet and canary seed), and on any products of the soil declared by the regulations to be "grain" for the purposes of the Act (paragraph (c) of the definition). This allows the AWB to undertake trade, value-adding activities, research and other functions conferred by the Act and complementary State legislation, in respect of these grains and their products.

Since the Act was amended no other seeds or products of the soil have been prescribed under paragraphs (a) and (b), or (c) of the definition respectively.

The main purpose of the Regulations is to expand the definition of "grain" under paragraph (c), to declare canola and cottonseed to be "grain" for all purposes of the Act. These changes were requested by the AWB to allow it to trade in these grains. Canola is a particular type of rapeseed used to produce edible oil. The AWB can already trade in rapeseed, but since the Act was originally drafted in 1989, canola, which is separately identified by the industry because of its properties, has taken over as the predominate type of rapeseed produced. Cottonseed is a by-product of cotton used to produce both an edible oil and a stockfeed. Its addition to the definition of "grain" will give the AWB coverage of all the major oilseeds and enable it to offer a wider range of stockfeed products to its customers. Furthermore, cotton production is, in some cases, undertaken as part of a grain cropping program by wheat farmers and the inclusion of cottonseed is therefore consistent with the AWB's objective to provide Australian graingrowers with a choice of marketing options, by participating in the grain market. The changes are also consistent with the AWB's corporate planning objectives of broadening its business base to other grain and value-adding activities, as a means of increasing grower returns.

The Regulations will repeal a previous amendment to the Wheat Marketing Regulations which expanded the definition of "grain" in the Act, as it was prior to the above-mentioned amendment to the Act, to include pasture seeds, tree seeds and horticultural seeds.

The prior definition of "grain" reflected the current provisions in paragraph (c), and pasture seeds, tree seeds and horticultural seeds were prescribed under that definition to allow the AWB

to test a full range of seeds, following the takeover of the Victorian Department of Agriculture's seed testing laboratory by the AWB's Academy of Grain Technology. Although the consequence of making those regulations was to enable the AWB to undertake other functions, including trade, in respect of those seeds, the AWB did not seek to do that. There was no scope under the Act at the time to allow some of the AWB's functions to be applied to only some of the products included in the definition of "grain".

Details of the Regulations are set out below:

Regulation 1 - Provides for amendment of the Wheat Marketing Regulations.

Regulation 2 - Omits Regulation 2A which prescribed pasture seeds, tree seeds and horticultural seeds as "grain" under the prior definition of "grain" in the Act.

A new Regulation 2A extends the definition of "grain" for the purposes of the Act, to include canola and cottonseed.

The Regulations commenced on Gazettal.