

WHEAT EXPORT MARKETING (REPEAL AND CONSEQUENTIAL AMENDMENTS) BILL 2008

EXPLANATORY NOTES

When a new Act is established it often creates the need to amend other existing laws. It is common practice that these amendments are covered by a single “consequential amendment” Act. This Bill is the proposal to establish such an Act as a result of the enactment of the *Wheat Export Marketing Act 2008*.

Sections 1, 2 and 3.

These sections specify what the proposed Act will be called; when the various provisions of the Act will commence; and refers to the Schedules which contain the details of the proposed amendments to other laws and the transition mechanisms for transfer of the Export Wheat Commission (EWC) to Wheat Exports Australia (WEA).

Schedule 1 – Repeal

This Item removes (repeals) the *Wheat Marketing Act 1989* from power.

Schedule 2 – Consequential amendments

Criminal Code Act 1995

These amendments mean the Criminal Code Act will specifically prohibit false statements made when applying for wheat export accreditation. This means that officers of a company can be imprisoned for falsely or recklessly providing information in their application for accreditation.

Customs (Prohibited Exports) Regulations 1958

Currently companies other than AWBI are also prohibited by the Customs regulations from exporting bulk wheat (designed to enforce the present bulk export monopoly). These amendments will prohibit the export of wheat in bulk unless a company is accredited by WEA. AWBI will have a temporary exemption to allow it to finalise the marketing of the 2007 national pool. Companies that have an export consent permit will also have a temporary exemption in line with their permit. The exemption is for the period 1 July 2008 to 1 October 2008.

Financial Management and Accountability Regulations 1997

This amendment replaces the reference to the Export Wheat Commission (EWC) with a reference to WEA in terms of requirements for financial accountability.

Freedom of Information Act 1982 (FOI Act)

At present there is a reference in the FOI Act to the *Wheat Marketing Act 1989*. This reference provides an exemption for the EWC having to produce documents associated with its commercial activities. This reference is redundant because the EWC (and the proposed WEA) do not undertake activities that are of a commercial nature. This item will remove the reference to the *Wheat Marketing Act 1989*.

Primary Industries and Energy Research and Development Act 1989

AND

Primary Industries Levies and Charges Collection Act 1991

These amendments clarify the status of the Wheat Marketing Act 1989. They will refer to it as an Act that is no longer in force.

Schedule 3 – Transitional Provisions

Provisions under Schedule 3 will allow for the transition of the EWC to WEA. This includes the transfer of funds held by the EWC to WEA; the termination of members of the EWC and the finalisation of the EWC's last annual report. It also provides that confidential information held by the EWC will remain confidential.

Under Item 7 provision will be made to allow the EWC to begin developing the accreditation scheme before the *Wheat Export Marketing Act 2008* comes into force. This will enable the scheme to come into operation at the same time, or soon after, WEA is established on 1 July 2008.

Under Item 8 provision will be made to allow AWB (International) Ltd to be able to export wheat from the National Pool until 30 September 2008 without accreditation. This has been done to ensure that there is no delay in finalising the 2007-08 national pools run by AWB (International) and hence no delay in growers receiving their final payments. If this provision is not made then AWB (International) would be prevented from exporting pool wheat until it obtained accreditation.

Similarly, other companies that have valid consents issued by the Export Wheat Commission to export bulk wheat (eg CBH) will be able to continue to export wheat under the conditions of their existing consents. This exemption from accreditation will run until 1 October 2008.

Item 9 gives WEA the responsibility of reporting AWB (International) Ltd's performance and activities to the Minister and to growers following finalisation of the 2007-2008 pool. This is currently a requirement of the EWC and if the transition provision is not included then growers would not get a report on the 2007-08 pool.

Item 10 provides that any investigation that the Minister for Agriculture, Fisheries and Forestry has directed prior to 1 July 2008 will be continued and reported on, as necessary, by WEA.