



Wheat Export Marketing (Repeal and Consequential Amendments) Bill 2008

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Wheat Export Marketing (Repeal and Consequential Amendments) Bill 2008

Date introduced: 29 May 2008

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: Schedules 1 and 2, and items 2-6 and 9-11 of Schedule 3 at the same time as section 4 of the *Wheat Export Marketing Act 2008* commences; items 1, 7 and 8 of Schedule 3 at the same time as section 1 of the *Wheat Export Marketing Act 2008* commences; all other provisions on the date on which the Royal Assent is given.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Bill is to deal with consequential matters arising from the enactment of the Wheat Export Marketing Bill 2008 and repeal the *Wheat Marketing Act 1989*.

Background

The agricultural policy landscape at both State and Federal level was once well populated by statutory trading monopolies and other legislated arrangements for the marketing of farm products. However, reforms in both agricultural policy and the broader economic agenda over the last couple of decades have transformed agricultural marketing in Australia to the point where the monopoly over wheat exports is the only remaining such arrangement effective at the national level.

Currently the Australian domestic and export wheat markets operate very differently. The Australian **domestic** wheat market was completely deregulated in 1989, and has operated free of specific government regulation since that time. Growers are able to directly sell their wheat to domestic traders and consumers, or to deliver their wheat into 'pools'.

The Australian **export** wheat market is directed through a single exporter of bulk wheat – Australian Wheat Board International Limited (AWB International). This is known as the

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‘single desk’. The statutory regulator, the Export Wheat Commission, manages the export of non-bulk wheat (that is, bagged or container wheat).

This Bills Digest should be read in conjunction with the [Bills Digest](#) for the Wheat Export Marketing Bill 2008.

Financial implications

There are no financial implications.¹

Main provisions

Item 1 of Schedule 1 repeals the whole of the *Wheat Marketing Act 1989*.

Items 1 to 5 of Schedule 2 amend the *Criminal Code Act 1995* to include a reference to an application for accreditation under the wheat export accreditation scheme. The effect of the amendment is that section 136.1 will provide that a person is guilty of an offence if they make a statement (either orally or in writing) in relation to an application for accreditation under the wheat export accreditation scheme, knowing that the statement is false or misleading. The maximum penalty for such an offence is 12 months imprisonment.

Items 6 to 8 of Schedule 2 amend the *Customs (Prohibited Exports) Regulations 1958* (the Customs (Prohibited Exports) Regulations).

Item 6 repeals existing subregulation 5(4) which permits the export of wheat by AWB (International) under the *Wheat Marketing Act 1989*. **Item 7** inserts **proposed regulation 9AAA** which provides that exportation of bulk wheat from Australia is prohibited unless the wheat is exported by an accredited wheat exporter. **Proposed subregulation 9AAA(3)** provides an exception for AWB (International) which will be permitted to export wheat up to and including 30 September 2008.

In line with the terms of clause 7 of the Wheat Export Marketing Bill, the proposed amendments to the Customs (Prohibited Exports) Regulations reflect that wheat which is exported in a bag or container that is capable of holding not more than 50 tonnes of wheat is not affected by the legislative scheme.

Item 8 repeals the reference to wheat (other than wheat in bags or containers) from existing Schedule 3 of the Customs (Prohibited Exports) Regulations. Schedule 3 lists those goods which cannot be exported without the approval of the Minister.

1. Explanatory Memorandum, p. 2.

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Items 9 and 10 of Schedule 2 amend the *Financial Management and Accountability Regulations 1997* (the Financial Management and Accountability Regulations).

Part 1 of Schedule 1 of the Financial Management and Accountability Regulations contains a table listing prescribed agencies that do not handle money other than public money. **Item 9** repeals existing table item 122C which contains a reference to the Export Wheat Commission. **Item 10** inserts proposed table item 145A which, instead, contains a reference to Wheat Exports Australia.

Item 11 of Schedule 2 amends the *Freedom of Information Act 1982* (FOI Act) to omit the reference to *Wheat Marketing Act 1989* from Part III of Schedule 2 of the FOI Act. Part III lists the legislation relating to agencies exempt in respect of documents in relation to their commercial activities. No replacement reference to the *Wheat Export Marketing Act 2008* is proposed in this Bill. This means that Wheat Exports Australia will be subject to the provisions of the FOI Act.

Items 12 to 14 of Schedule 2 amend the *Primary Industries and Energy Research and Development Act 1989* by inserting the word ‘repealed’ before each existing reference to the *Wheat Marketing Act 1989*.

Item 15 of Schedule 2 amends the *Primary Industries Levies and Charges Collection Act 1991* by inserting the word ‘repealed’ before the existing reference to the *Wheat Marketing Act 1989*.

Schedule 3 of the Bill contains transitional provisions.

Item 1 of Schedule 3 contains relevant definitions including:

- ‘**EWC**’ means Export Wheat Commission
- ‘**transition time**’ means the commencement of section 4 of the Wheat Export Marketing Act 2008
- ‘**WEA**’ means Wheat Export Australia.

Item 2 of Schedule 3 provides that for the purposes of any Act appropriating money for expenditure out of the Consolidated Revenue Fund, after the transition time, all references to EWC are to be read as WEA. This is in accordance with clause 35 of the Wheat Export Marketing Bill 2008.

Item 3 of Schedule 3 provides that a person who is a member of the EWC at the transition time will cease to be a member of EWC. There is no provision of this Bill or the Wheat Export Marketing Bill 2008 which would prevent a member of EWC of becoming a member of WEA.

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Under **item 4 of Schedule 3** the Export Wheat Commission Special Account is abolished and the balance transferred to the Wheat Exports Australia Special Account which is set up in accordance with clause 58 of the Wheat Export Marketing Bill 2008.

Item 5 of Schedule 3 requires EWC to provide a report to the Minister about its operations in the nine month period from 1 October 2007. The Minister is to table the report in each House of the Parliament within 15 sitting days of the day on which the Minister receives the report.

Item 6 of Schedule 3 preserves the confidentiality of information provided to EWC despite the repeal of the *Wheat Marketing Act 1989*. According to the Explanatory Memorandum, the information referred to was provided by AWB (International) to EWC on the basis that it was ‘commercial in confidence’ and any release could reasonably be expected to cause financial loss or detriment to AWB (International).²

Item 7 of Schedule 3 empowers EWC to formulate the terms of the wheat export accreditation scheme before the transition time. Any instrument made by EWC has effect, after the transition time, as if it were made by WEA. If the wheat export accreditation scheme is formulated before the transition time, then **item 8 of Schedule 3** further empowers EWC to approve forms under the wheat export accreditation scheme. Where that occurs, any form approved by EWC before the transition time is taken to have been approved by WEA.

Item 9 of Schedule 3 allows AWB (International) to export bulk wheat up to 1 October 2008 without being an accredited exporter. According to the Explanatory Memorandum, this is to ensure that there are no delays in finalising the 2007-08 National Pool, or executing export consents, while the companies are having their accreditation applications assessed by WEA.³

Item 10 of Schedule 3 imposes strict reporting requirements on WEA. In particular it must report to the Minister about AWB (International)’s performance within six months of the final distribution of payments to participants in the 2007-08 National Pool.

Item 11 of Schedule 3 provides that where EWC has commenced an investigation prior to 1 July 2008, WEA must complete the investigation and relevant report.

2. Explanatory Memorandum, p. 6.

3. *ibid.*, p. 7.

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