

WHEAT QUOTAS ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 89, 1973.

An Act to provide for the allocation of quotas in respect of wheat of the 1973-1974 season in respect of which payment will be made by the Australian Wheat Board in accordance with the Wheat Industry Stabilization Act, 1968; to amend the Wheat Quotas Act, 1969; and for purposes connected therewith. [Assented to, 20th December, 1973.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Wheat Quotas Act, 1973".

Construction of Act.

2. This Act shall be read and construed with and as part of the Wheat Industry Stabilization Act, 1968.

Division of Act.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—QUOTAS FOR THE 1973–1974 SEASON—ss. 5–8.

DIVISION 1.—1973–1974 Quotas—s. 5.

DIVISION 2.—1973–1974 Northern Prime Hard Quotas—ss. 6, 7.

DIVISION 3.—1973–1974 Durum Quotas—s. 8.

PART III.—SHAREFARMERS—ss. 9, 10.

PART IV.—MISCELLANEOUS—ss. 11–34.

SCHEDULE.

Wheat Quotas.

4. In this Act, except in so far as the context or No. 89, 1973 subject-matter otherwise indicates or requires—

Interpreta-
tion.

“basic quota” means, subject to section 41 (2) of the Wheat Quotas Act, 1969, a basic quota allocated under section 6, 9, 33 (1) or 39 (1) of that Act that has not been cancelled;

“durum agreement” means an agreement in writing whereby a person other than Geo. Fielder and Co. Limited agrees to sow durum wheat on land in New South Wales for harvesting in the 1973–1974 season;

“1973–1974 durum quota” means 1973–1974 durum quota allocated under this Act;

“durum wheat” means wheat—

- (a) that complies with the standard for fair average quality wheat determined by the Board for the 1973–1974 season;
- (b) that is of the Dural or Duramba variety; and
- (c) that contains an admixture of no more than ten per centum of mottled, soft or bleached grains;

“1973–1974 northern prime hard quota” means 1973–1974 northern prime hard quota allocated under this Act;

“northern prime hard wheat” means wheat—

- (a) that complies with the standard for fair average quality wheat determined by the Board for the 1973–1974 season;
- (b) that is of the Gamut, Gatcher, Spica, Tarsa, Timgalen, Windebri or Winglen variety;
- (c)

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- (c) that contains a minimum protein content of at least thirteen per centum by weight at natural moisture; and
- (d) that contains an admixture of no more than ten per centum of mottled, soft or bleached grains;

“owner”, in relation to land, includes—

- (a) every person who jointly or severally, whether at law or in equity—
 - (i) is entitled to the land for any estate of freehold in possession;
 - (ii) is a person to whom the Crown has lawfully contracted to grant the fee-simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or
 - (iii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;
- (b) the lessee from any owner as defined in paragraph (a); and
- (c) a licensee, other than a sharefarmer, under a licence that was granted by an owner as defined in paragraph (a) or (b) and entitles the licensee to grow wheat on that owner’s land,

but where two or more persons are the owners of any land and—

- (d) are owners, as defined in paragraph (a), of that land and are joint tenants or tenants in common on that land;

(e)

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- (e) are owners, as defined in paragraph (b), of No. 89, 1973 that land and are joint lessees of that land; — or
- (f) are owners, as defined in paragraph (c), of that land and are joint licensees of that land,

those persons shall, for the purposes of this Act, be regarded as only one owner;

“1973–1974 quota” means 1973–1974 quota allocated under this Act;

“relevant seasons” means each of the years that commenced on 1st October, 1964, 1965, 1966, 1967 and 1968;

“sharefarmer” means a person who has entered into an agreement with the owner of any land that is in New South Wales or the Australian Capital Territory whereby—

- (a) that owner grants a licence to that person to use and occupy the whole or any part of the land for agricultural or pastoral purposes or partly for agricultural and partly for pastoral purposes;
- (b) that person undertakes to provide labour either with or without materials, stock, plant or equipment for the working of the land to which the agreement relates; and
- (c) the owner and that person agree that the produce of the land to which the agreement relates, derived during the currency of the agreement, or the proceeds of the sale of that produce, shall be divided between the parties in specified proportions or shares,

where

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where that person, pursuant to that agreement, sowed wheat on or before 30th September, 1973, for harvesting in the 1973–1974 season on the land to which the agreement relates;

“sharefarming agreement” means an agreement of the nature referred to in the definition of “sharefarmer” in this section made between a sharefarmer and the owner of any land to whom a 1973–1974 quota is allocated;

“the 1973–1974 season” means the year that commenced on 1st October, 1973;

“wheatgrower” means a person who, on or before 30th September, 1973, sowed wheat on land in New South Wales or the Australian Capital Territory for harvesting in the 1973–1974 season.

PART II.**QUOTAS FOR THE 1973–1974 SEASON.****DIVISION 1.—1973–1974 Quotas.**

Calculation and allocation of 1973–1974 quotas.

5. (1) In this section, “prescribed person” means a person—

- (a) who has a basic quota; and
- (b) who is a wheatgrower.

(2) Subject to section 12, the Grain Elevators Board shall allocate to a prescribed person a 1973–1974 quota calculated in accordance with the formula specified in sub-section (3).

(3)

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(3) The formula referred to in subsection (2) is— No. 89, 1973

$$A = B + \frac{B}{3}$$

where—

“A” represents the quantity in bushels of wheat which is the 1973–1974 quota to be allocated to a prescribed person; and

“B” represents the quantity in bushels of wheat which is the basic quota allocated to that person.

DIVISION 2.—1973–1974 Northern Prime Hard Quotas.

6. Where a person—

(a) is entitled to a 1973–1974 quota pursuant to section 5 (2); and

(b) has been allocated storage space during the 1973–1974 season at the elevators and other works of the Grain Elevators Board situated at any of the places specified in the Schedule,

the Grain Elevators Board shall allocate to that person a 1973–1974 northern prime hard quota equal to thirty per centum of the quantity in bushels of wheat which is his basic quota.

7. Where a person who is allocated a 1973–1974 quota under section 5 (2) has not been allocated storage space at the elevators and other works of the Grain Elevators Board situated at any of the places specified in the Schedule during the 1973–1974 season and that person has in his possession northern prime hard wheat of that season, the Grain Elevators Board shall allocate to that person, in such manner and for such quantity as the Minister may determine and notify to that Board, a 1973–1974 northern prime hard quota.

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DIVISION 3.—1973–1974 *Durum Quotas.*

Calculation and allocation of 1973–1974 durum quotas.

8. (1) Subject to subsection (2), where a person enters into a durum agreement with the Board or with Geo. Fielder and Co. Limited, the Grain Elevators Board may allocate to that person, in the manner and for the quantity notified by the Minister to the Grain Elevators Board, a 1973–1974 durum quota.

(2) The Grain Elevators Board may, by notice in writing, require a person to furnish information concerning a durum agreement and may require that information to be verified by statutory declaration and any such information to which such a requirement relates shall be deemed not to have been duly furnished to that Board unless it has been so verified.

(3) Where two or more persons enter into the same durum agreement those persons shall, for the purposes of subsection (1), be regarded as one person.

PART III.

SHAREFARMERS.

Quota authority to include name of share-farmer.

9. Where the Grain Elevators Board is aware that a person to whom it has allocated a 1973–1974 quota or a 1973–1974 northern prime hard quota (in this Part referred to as an allottee) is a party to a sharefarming agreement and it proposes to forward a quota authority under section 21 in respect of that quota, it shall specify in that quota authority that the quota has been allocated to specified persons jointly (being the parties to the sharefarming agreement) and the quota shall be deemed to have been allocated to those persons jointly instead of to the allottee.

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10. (1) Where the Grain Elevators Board is aware that No. 89, 1973 an allottee who is a party to a sharefarming agreement is in dispute with any other party to the agreement as to the manner in which the 1973-1974 quota or, as the case may be, the 1973-1974 northern prime hard quota, allocated to the allottee is to be apportioned among the allottee and the other parties, that Board shall cancel the quota so allocated and shall notify the allottee and each of the parties to the sharefarming agreement that, within a time specified in the notification, they may make to that Board such written representations as they think fit in connection with the dispute.

(2) Where a quota is cancelled pursuant to subsection (1) the Grain Elevators Board shall, after considering any representations made to it by the allottee and other parties and any other matters it considers relevant, allocate 1973-1974 quotas or, as the case may require, 1973-1974 northern prime hard quotas, to the allottee and the other parties to the sharefarming agreement in such manner and for such quantities not exceeding in the aggregate the quantity of the cancelled quota, as it thinks fit.

(3) The Grain Elevators Board may require any information furnished to it by an allottee or other party to a sharefarming agreement to be verified by statutory declaration.

PART IV.

MISCELLANEOUS.

11. The Grain Elevators Board may refuse to allocate a 1973-1974 quota or a 1973-1974 northern prime hard quota, or may allocate a reduced 1973-1974 quota or a reduced 1973-1974 northern prime hard quota, to a person who, in the opinion of that Board—

- (a) was not entitled to be allocated a basic quota; or
- (b) was not entitled to be allocated a basic quota of the quantity allocated.

12.

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No. 89, 1973 12. Where, after the Grain Elevators Board has allocated a 1973-1974 quota or a 1973-1974 northern prime hard Quota may be cancelled, quota to a person, that Board is satisfied—

- (a) that the basic quota held by that person was calculated incorrectly;
- (b) that that person was, under a law of another State, allocated a quota of a kind that, in the opinion of the Grain Elevators Board, is equivalent to a basic quota;
- (c) that the basic quotas held by that person and another person or other persons were calculated by reference, wholly or partly, to the same wheat delivered to the Board in any of the relevant seasons or sown for harvesting in the 1969-1970 season; or
- (d) that the 1973-1974 quota, or the 1973-1974 northern prime hard quota, allocated to that person was calculated incorrectly,

the Grain Elevators Board may cancel that person's 1973-1974 quota or his 1973-1974 northern prime hard quota and if it thinks fit allocate to him another 1973-1974 quota or 1973-1974 northern prime hard quota for such quantity of wheat as it thinks fit.

Transfer of certain quotas.

13. Where a person has been allocated a 1973-1974 quota, a 1973-1974 northern prime hard quota or a 1973-1974 durum quota, the Grain Elevators Board may, on the application of that person or his personal representative, cancel that person's 1973-1974 quota, 1973-1974 northern prime hard quota or 1973-1974 durum quota and allocate it to such person as is, or allocate it in such proportions and to such persons as are, specified in the application.

Cancellation or reduction of 1973-1974 quotas where wheat cannot be delivered.

14. (1) Where a person to whom a 1973-1974 quota has been allocated ascertains that he is or will be unable for any reason to deliver to the Board wheat as, or as part of, his 1973-1974 quota he shall forthwith notify the Grain Elevators Board of that fact indicating, as far as is practicable, the quantity that he is or will be unable so to deliver.

(2)

Wheat Quotas.

(2) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 quota has been allocated will be unable to deliver to the Board any wheat as, or as part of, his 1973-1974 quota the Grain Elevators Board shall cancel that person's 1973-1974 quota.

(3) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 quota has been allocated will be able to deliver to the Board wheat as part of his 1973-1974 quota but in a quantity less than that quota, the Grain Elevators Board shall reduce that person's 1973-1974 quota to that quantity.

15. (1) Where the Grain Elevators Board is of the opinion that the quantity of wheat which may be delivered pursuant to all 1973-1974 quotas will be less than 177,000,000 bushels (the deficiency being in this section referred to as the short fall) that Board shall from time to time advise the Minister of the quantity of wheat which is likely to be the short fall.

(2) The Grain Elevators Board shall, in such manner as the Minister may determine and notify to the Grain Elevators Board, allocate the short fall by increasing such classes of 1973-1974 quotas as the Minister may determine and so notify.

16. (1) Where a person to whom a 1973-1974 northern prime hard quota has been allocated ascertains that he is or will be unable for any reason to deliver to the Board northern prime hard wheat as, or as part of, his 1973-1974 northern prime hard quota he shall forthwith notify the Grain Elevators Board of that fact indicating, as far as is practicable, the quantity that he is or will be unable so to deliver.

(2) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 northern prime hard quota has been allocated

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No 89, 1973 allocated will be unable to deliver to the Board any northern prime hard wheat as, or as part of, his 1973-1974 northern prime hard quota, the Grain Elevators Board shall cancel that person's 1973-1974 northern prime hard quota.

(3) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 northern prime hard quota has been allocated will be able to deliver to the Board northern prime hard wheat as part of his 1973-1974 northern prime hard quota but in a quantity less than that quota, the Grain Elevators Board shall reduce that person's 1973-1974 northern prime hard quota to that quantity.

Allocation
of short
fall of
wheat
under
1973-1974
northern
prime hard
quotas.

17. (1) Where the Grain Elevators Board is of the opinion that the quantity of northern prime hard wheat which may be delivered pursuant to all 1973-1974 northern prime hard quotas will be less than 14,000,000 bushels (the deficiency being in this section referred to as the short fall) that Board shall from time to time advise the Minister of the quantity of northern prime hard wheat which is likely to be the short fall.

(2) The Grain Elevators Board shall, in such manner as the Minister may determine and notify to the Grain Elevators Board, allocate the short fall by increasing such classes of 1973-1974 northern prime hard quotas as the Minister may determine and so notify.

Reduction of
1973-1974
northern
prime hard
quotas
where
State
quota
exceeded.

18. Where the Grain Elevators Board determines that the total quantity of northern prime hard wheat in respect of which 1973-1974 northern prime hard quotas have been allocated exceeds 14,000,000 bushels, the Grain Elevators Board shall reduce all the 1973-1974 northern prime hard quotas, in so far as they apply to northern prime hard wheat that has not at the date of the determination been delivered to the Board, by a quantity calculated in such manner as may be determined by the Minister and notified to the Grain Elevators Board.

Wheat Quotas.

19. (1) Where a person to whom a 1973-1974 durum No. 89, 1973
quota has been allocated ascertains that he is or will be unable Cancella-
for any reason to deliver to the Board durum wheat as, or as tion or re-
part of, his 1973-1974 durum quota he shall forthwith notify duction of
the Grain Elevators Board of that fact indicating, as far as 1973-1974
is practicable, the quantity that he is or will be unable so to durum
deliver. quotas where durum

(2) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 durum quota has been allocated will be unable to deliver to the Board any durum wheat as, or as part of, his 1973-1974 durum quota, the Grain Elevators Board shall cancel that person's 1973-1974 durum quota. cannot be delivered.

(3) Where the Grain Elevators Board is of the opinion from any information in its possession that a person to whom a 1973-1974 durum quota has been allocated will be able to deliver to the Board durum wheat as part of his 1973-1974 durum quota but in a quantity less than that quota, the Grain Elevators Board shall reduce that person's 1973-1974 durum quota to that quantity.

20. (1) Where the Grain Elevators Board is of the Allocation opinion that the quantity of durum wheat which may be ~~fall of~~^{of short} delivered pursuant to all 1973-1974 durum quotas will be ~~wheat~~^{under} less than 2,000,000 bushels (the deficiency being in this ~~1973-1974~~^{under} section referred to as the short fall) that Board shall from ~~durum~~^{time to time} advise the Minister of the quantity of durum ~~quotas~~^{wheat} which is likely to be the short fall.

(2) The Grain Elevators Board shall, in such manner as the Minister may determine and notify to the Grain Elevators Board, allocate the short fall by increasing such classes of 1973-1974 durum quotas as the Minister may determine and so notify.

21. (1) Where the Grain Elevators Board has, before the commencement of this Act, allocated or purported to allocate a 1973-1974 quota, a 1973-1974 northern prime hard Quotas allocated before commencement of Act.

No. 89, 1973 hard quota or a 1973–1974 durum quota to any person, the quota so allocated or which purports to have been so allocated, shall be deemed to have been allocated to that person under this Act.

(2) The Grain Elevators Board—

- (a) shall, in the case of a person to whom a 1973–1974 quota is allocated by that Board; or
- (b) may, in the case of a person to whom a 1973–1974 northern prime hard quota is allocated by that Board,

forward to that person a book, in this Act referred to as a quota authority, in which shall be specified that person's 1973–1974 quota or 1973–1974 northern prime hard quota, as the case may be.

(3) The Grain Elevators Board may, in the case of a person to whom a 1973–1974 durum quota is allocated by that Board, forward to that person a quota authority.

Lost quota authorities.

22. (1) If any quota authority is lost, destroyed or defaced before all the wheat in respect of which it was issued has been delivered to the Board, the Grain Elevators Board may, subject to this section, issue a new quota authority in its stead.

(2) Where a quota authority is lost or destroyed the new quota authority shall not be issued unless the person who lost the quota authority lodges a statutory declaration with the Grain Elevators Board containing a statement that the quota authority has been lost or destroyed.

(3) Where a quota authority is defaced the new quota authority shall not be issued unless the defaced quota authority is lodged with the Grain Elevators Board for cancellation.

(4)

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(4) In issuing a new quota authority under this section, the Grain Elevators Board shall ensure that the quantity of wheat specified in the new quota authority is the quantity specified in the lost, destroyed or defaced quota authority less any quantity of wheat delivered pursuant to that quota authority before it was lost, destroyed or defaced.

23. (1) Nothing in this Act affects the operation of any scheme prepared by the Grain Elevators Board under section 12A of the Grain Elevators Act, 1954.

(2) Notwithstanding any other provision of this or of any other Act, the Grain Elevators Board—

- (a) may refuse to accept delivery of any wheat as being part of a 1973–1974 quota if the quota authority in respect of that wheat is not presented to that Board at the time of delivery;
- (b) shall refuse to accept delivery of any wheat as being part of a 1973–1974 northern prime hard quota unless—
 - (i) it is delivered to the Grain Elevators Board at the elevators or works of that Board specified in the Schedule; and
 - (ii) it is accompanied, upon delivery, by a certificate of the Premium Wheat Growers' Association Limited certifying that it is northern prime hard wheat; and
- (c) shall refuse to accept delivery of any wheat as being part of a 1973–1974 durum quota unless—
 - (i) it is delivered to the Grain Elevators Board at such of the elevators or works of that Board as may be notified in a manner to be determined by that Board; and
 - (ii) it is accompanied, upon delivery, by a certificate of the Premium Wheat Growers' Association Limited certifying that it is durum wheat.

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Allocation
of increased
1973-1974
quotas
where State
quota
increased.

24. (1) Where the quantity of wheat of the 1973-1974 season delivered to the Board exceeds 193,000,000 bushels, the Grain Elevators Board may, with the approval of the Minister, increase a 1973-1974 quota allocated to any person.

(2) The Grain Elevators Board shall comply with any directions given to it by the Minister in connection with the allocation of increased quotas under subsection (1).

Quota
authorities
to be
returned
after
increase,
reduction or
cancellation.

25. (1) Where a 1973-1974 quota or a 1973-1974 northern prime hard quota is increased, reduced or cancelled under this Act the person to whom the 1973-1974 quota or 1973-1974 northern prime hard quota, as the case may be, was allocated shall within seven days after being required to do so by the Grain Elevators Board lodge with that Board any quota authority issued to him.

(2) Where a 1973-1974 quota or a 1973-1974 northern prime hard quota allocated to any person is increased or reduced to a specified quantity pursuant to any of the provisions of this Act, that person shall, for the purposes of this Act, be deemed to have been allocated a 1973-1974 quota or a 1973-1974 northern prime hard quota, as the case may be, equal to that specified quantity.

1973-1974
quota not
to be
allocated
to certain
persons.

26. A 1973-1974 quota shall not be allocated to—

- (a) a person in respect of wheat sown for harvesting in the 1973-1974 season on land situated wholly or partly within the area defined by a proclamation in force under section 4 of the Border Railways (Grain Elevators) Amendment Act, 1957; or
- (b) a person who has entered into an agreement under section 22A of the Grain Elevators Act, 1958, as subsequently amended, of the State of Victoria for the delivery of wheat of the 1973-1974 season grown on land to which the agreement relates to the Grain Elevators Board constituted under that Act, as so amended.

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27. (1) The provisions of any Act of the State of Victoria No. 89, 1973 that provides for the allocation of quotas for the delivery of wheat, or of storage space for wheat, grown on land areas referred to in section 26 (a) or (b) apply, in respect of wheat deemed to be part of the 1973-1974 season, to persons who have sown wheat Victoria for harvesting in that season on that land as if that land were for certain purposes. part of the State of Victoria.

(2) A person who has grown wheat of the 1973-1974 season on land other than land referred to in section 26 (a) is not entitled to deliver that wheat to any of the elevators or works operated by the Grain Elevators Board of the State of Victoria situated on any land so referred to, except with the consent of that Board.

28. No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against—

- (a) Her Majesty;
- (b) the Minister; or
- (c) the Grain Elevators Board, or any member or employee thereof,

for anything bona fide done or omitted to be done for the purposes of carrying out or giving effect to this Act.

29. (1) No proceeding for an injunction or for a judgment or order commanding the doing of an act or other proceeding shall lie or be taken in respect of the allocation of any quota by, or of any order, determination, notification, proceeding or direction of, the Minister or the Grain Elevators Board relating to, or on the face of the proceedings appearing to relate to, any matter arising out of this Act.

(2) The validity of any proceeding or decision of the Minister or the Grain Elevators Board shall not be challenged in any manner whatsoever.

No. 89, 1973 **30.** Any person who contravenes or fails to comply with a provision of this Act for which no penalty is expressly provided is guilty of an offence against this Act and liable to a penalty not exceeding \$400.

Proceedings. **31.** All proceedings for offences against this Act or the regulations made under this Act shall be disposed of summarily before a court of petty sessions.

Offences by companies and joint offenders. **32.** The provisions of section 32 of the Marketing of Primary Products Act, 1927, apply to and in respect of offences under this Act.

Regulations. **33.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may make different provisions in respect of different matters according to time, place or circumstances.

(3) The regulations may prescribe a penalty not exceeding \$400 for any contravention of, or failure to comply with any provision of, the regulations.

Amendment of Act No. 53, 1969. **34.** The Wheat Quotas Act, 1969, is amended by inserting at the end of section 39 the following new subsection :—

Sec. 39.
(Allocation and cancellation of basic quotas in special cases.) **(2)** The Grain Elevators Board may, upon a request made to it in writing by a person to whom a basic quota has been allocated or by his personal representative, cancel the basic quota allocated to that person.

Wheat Quotas.

SCHEDULE.		No. 89, 1973
Armatree	Gravesend	Secs. 6, 7 and 23.
Baan Baa	Gular	
Baradine	Gunnedah	
Bellata	Gurley	
Biniguy	Gwabegar	
Boggabilla	Merah North	
Boggabri	Merrywinebone	
Burren Junction	Milguy	
Combara	Moree	
Coonamble	Mungeribar	
Crooble	Narrabri West	
Croppa Creek	Narromine	
Cryon	Nea	
Culgoora	Nevertire	
Curban	North Star	
Curlewis	Nyngan	
Delungra	Premer	
Edgeroi	Quirindi	
Emerald Hill	Springridge	
Eumungerie	Tamarang	
Garah	Trangie	
Geurie	Weemelab	
Gilgandra	Wee Waa	

YOUTH