

WHEAT MARKETING (AMENDMENT) ACT, 1982, No. 176

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 176, 1982.

An Act to amend the Wheat Marketing Act, 1979, in relation to the payment for wheat delivered to the Australian Wheat Board, and for other purposes. [Assented to, 24th December, 1982.]

Wheat Marketing (Amendment).

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:—

Short title.

1. This Act may be cited as the "Wheat Marketing (Amendment) Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence or be deemed to have commenced, as the case may require, on the date of commencement of the Wheat Marketing Amendment Act 1982 of the Commonwealth.

Amendment of Act No. 202, 1979.

3. The Wheat Marketing Act, 1979, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE WHEAT MARKETING ACT, 1979.

- (1) Section 5 (1), definitions of "futures contract", "futures market"—

After the definition of "Commonwealth Minister", insert:—

"futures contract" means a wheat futures contract, a currency futures contract or a financial futures contract;

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

“futures market” means a market, exchange or other place at which futures contracts are regularly made or traded;

(2) Section 7 (1A)–(1C)—

After section 7 (1), insert:—

(1A) Subject to subsection (1B), the Board may, in relation to—

- (a) a sale or proposed sale of wheat by the Board; or
- (b) a borrowing or raising of money by the Board or a proposed borrowing or raising of money by the Board (including a borrowing or raising of money by the Board by dealing with securities),

enter into and deal with futures contracts for hedging purposes at a futures market.

(1B) The Board shall not enter into or deal with futures contracts otherwise than in accordance with the guidelines having effect from time to time under section 12 (1C) of the Commonwealth Act.

(1C) A futures contract shall be taken to be entered into or dealt with for hedging purposes if, and only if—

- (a) in the case of a wheat futures contract—the contract is entered into or dealt with for the purpose of minimising the risks of variations in the price obtainable for wheat under a contract for the sale of wheat that has been, or is to be, entered into by the Board; and

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

- (b) in the case of a currency futures contract or a financial futures contract—the contract is entered into or dealt with for the purpose referred to in paragraph (a) or for the purpose of minimising the risks of variations in the costs of a borrowing or raising of money by the Board or a proposed borrowing or raising of money by the Board (including a borrowing or raising of money by dealing with securities).

(3) Section 16 (1A), (1B)—

After section 16 (1), insert:—

(1A) The amount of an advance payment in respect of wheat of a season under subsection (1)—

- (a) may be paid as a lump sum; or
- (b) if the Board and the person to whom the payment is to be made agree, may comprise 2 or more payments to be paid at such times and on such conditions (including conditions relating to the payment to that person of interest on any part of the amount of the advance payment from time to time unpaid) as are determined by agreement between the Board and that person.

(1B) The Board shall not enter into an agreement of the kind referred to in subsection (1A) (b) with a person in relation to an advance payment under this section in respect of wheat of a season on conditions that are inequitable as regards other persons who have received, or will receive, advance payments under this section in respect of wheat of that season.

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

(4) (a) Section 17 (2)–(2B)—

Omit section 17 (2), insert instead:—

(2) Subject to subsection (2A), the Board shall determine an amount payable under subsection (1) in respect of any wheat by—

(a) calculating the amount that the advance payment in respect of the wheat under section 16 would have been if—

- (i) the reference in section 16 to the guaranteed minimum price for wheat were a reference to the net pool return rate for the wheat;
- (ii) the net pool return for the season in respect of which the advance payment was made were reduced by an amount (if any) equal to the amount, or the sum of the amounts, deducted by the Board from the proceeds of the disposal of wheat of that season and paid into a reserve account pursuant to section 12A of the Commonwealth Act; and
- (iii) the net pool return for the season in respect of which the advance payment was made were adjusted to take into account the result of any contract or dealing of the kind referred to in section 9 (3) (h) of the Commonwealth Act that was entered into or that took place in relation to that season; and

(b) deducting from the amount calculated in accordance with paragraph (a) the amount of the advance payment in respect of the wheat.

(2A) An amount payable under subsection (1) in respect of a season to a person who has purchased a quantity of wheat of that season (in this subsection referred to as the “purchased

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

quantity of wheat”) from the Board in accordance with section 21 (8) shall be calculated in accordance with the formula

$$A - \frac{AB}{C}, \text{ where—}$$

A is the amount that, but for this subsection, would be the amount required to be paid by the Board to that person under subsection (1) in respect of that season;

B is the purchased quantity of wheat; and

C is the total quantity of wheat of that season acquired by the Board from that person under this Act.

(2B) For the purpose of calculating the amount referred to in subsection (2) (a) in respect of any wheat of the season that commenced on 1st October, 1982, or in respect of any wheat of the next succeeding season, the amount of the advance payment under section 16 in respect of that wheat shall be increased or decreased, as the case may be, by the same amount of allowances in respect of the matters referred to in section 16 (2) as the amount of that advance payment was increased or decreased.

(b) Section 17 (5)—

Omit “, with the approval of the Commonwealth Minister,”.

(c) Section 17 (7)—

After section 17 (6), insert:—

(7) For the purposes of this section, the net pool return rate for wheat of a season shall be calculated as if the net pool return for that season were calculated taking into account the adjustments referred to in subsection (2) (a) (ii) and (iii).

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

(5) Section 17A—

After section 17, insert:—

Adjustments for allowances made under section 16.

17A. (1) In this section—

“adjusted advance payment”, in relation to a person who has received an advance payment under section 16 in respect of a season, means the amount that, in the opinion of the Board, would have been the amount of the advance payment made to that person under section 16 in respect of that season if the amount of that payment had been calculated at the time when the amount of allowances for the matters referred to in section 16 (2) in relation to that person could be finally ascertained;

“season” means the season that commenced on 1st October, 1982, or the next succeeding season.

(2) The amount of the adjusted advance payment for a season in relation to a person who has purchased a quantity of wheat of that season from the Board in accordance with section 21 (8) shall be adjusted by such allowances as the Board considers proper for the quality of wheat of that season acquired by the Board from that person under this Act compared to the quality of the wheat so purchased by that person from the Board, having regard to allowances that were taken into account by the Board in determining the price for the wheat so purchased.

(3) Where the adjusted advance payment in relation to a person in respect of a season is greater than the advance payment made to that person under section 16 in respect of that season, the Board shall pay to that person an amount equal to the difference between that adjusted advance payment and the amount of that advance payment.

Wheat Marketing (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—continued.**

(4) Where the amount of the advance payment made to a person under section 16 in respect of a season is greater than the adjusted advance payment in relation to that person in respect of that season, that person is liable to pay to the Board an amount equal to the difference between the amount of that advance payment and that adjusted advance payment.

(5) The Board may deduct from an amount payable to a person under section 17 in respect of a season the whole or a part of an amount payable by that person to the Board under subsection (4) in respect of that season.

(6) An amount payable by a person to the Board under subsection (4) is a debt due by that person to the Board and may be recovered as a debt due to the Board by action against that person in a court of competent jurisdiction.

(7) The Board may make advances on account of payments referred to in subsection (3).

(6) (a) Section 18 (3)—

After “any wheat”, insert “of a season”.

(b) Section 18 (3) (a)—

Omit “and”.

(c) Section 18 (3) (b)—

Omit “wheat.”, insert instead “wheat;”.

(d) Section 18 (3) (c), (d)—

After section 18 (3) (b), insert:—

- (c) the net pool return for that season were reduced by an amount (if any) equal to the amount, or the sum of the amounts, deducted by the Board from the proceeds of

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

the disposal of wheat of that season and paid into a reserve account pursuant to section 12A of the Commonwealth Act; and

- (d) the net pool return for that season were adjusted to take into account the result of any contract or dealing of the kind referred to in section 9 (3) (h) of the Commonwealth Act that was entered into or that took place in relation to that season.

- (e) Section 18 (4)—

Omit “, with the approval of the Commonwealth Minister,”.

- (f) Section 18 (6)—

After section 18 (5), insert:—

(6) For the purposes of this section, the net pool return rate for wheat of a season shall be calculated as if the net pool return for that season were calculated taking into account the adjustments referred to in subsection (3) (c) and (d).

- (7) Section 21 (8)–(12)—

After section 21 (7), insert:—

(8) The price for Australian standard white wheat in bulk, being wheat of a season sold free on rail at a port of export before the final purchasing day for that season to a person who has delivered wheat of that season to the Board for a stock-feed use by the person in Australia, is the price determined from time to time by the Board to be an equitable price in respect of the sale of wheat of that season to the person in respect of that stock-feed use, being a price that is

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

not less than the price per tonne paid to the person by the Board under section 16 (1) for wheat of that season increased or decreased by such allowances as the Board considers proper for—

- (a) the costs incurred by the Board in the handling and storage of that wheat before it is sold to the person;
- (b) any costs incurred by the Board in delivering that wheat to the person; and
- (c) other necessary adjustments.

(9) The Board may, in determining a price in respect of the sale of wheat of a season under subsection (8) to a person who has delivered wheat of that season to the Board, make allowances for the quality of the wheat sold to the person under that subsection compared to the quality of the wheat of that season delivered by the person to the Board.

(10) For the purposes of subsection (8), wheat shall be taken to be sold to a person for a stock-feed use by that person if it is sold to that person for a stock-feed use—

- (a) by that person at the farm at which the wheat of that season that was delivered to the Board by that person was harvested; or
- (b) by that person or by another person at an associated farm approved by the Board.

(11) The Board shall not sell to a person under subsection (8) a total amount of wheat of a season that is greater than the total amount of wheat of that season delivered by the person to the Board.

(12) In this section—

“associated farm” has the same meaning as in section 13;

Wheat Marketing (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WHEAT MARKETING ACT, 1979—*continued.*

“final purchasing day”, in relation to a season, means—

- (a) the day declared by the Commonwealth Minister under section 25 (1) of the Commonwealth Act to be the final delivery day for the season; or
- (b) such other day as the Commonwealth Minister determines in accordance with section 26 (12) of the Commonwealth Act;

“season” does not include the season commencing on 1st October, 1984, or the next succeeding season.