

SOUTH AUSTRALIA

**WHEAT MARKETING ACT 1989**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 8 December 1994.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

## SUMMARY OF PROVISIONS

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## APPENDIX LEGISLATIVE HISTORY

# WHEAT MARKETING ACT 1989

being

Wheat Marketing Act 1989 No. 66 of 1989

[Assented to 29 October 1989]<sup>1</sup>

as amended by

Wheat Marketing (Trust Fund) Amendment Act 1991 No. 62 of 1991 [Assented to 28 November 1991]

Wheat Marketing (Barley and Oats) Amendment Act 1994 No. 80 of 1994 [Assented to 8 December 1994]

<sup>1</sup> Came into operation 1 July 1989: s. 2.

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

**An Act relating to the marketing of wheat; to repeal the Wheat Marketing Act 1984; and for other purposes.**

The Parliament of South Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Wheat Marketing Act 1989*.

**Commencement**

2. This Act is to be taken to have come into operation on 1 July, 1989.

**Interpretation**

3. (1) In this Act—

"the Australian Wheat Board" or "the Board" means the Australian Wheat Board continued in existence under the Commonwealth Act;

"the Commonwealth Act" means the *Wheat Marketing Act 1989* of the Commonwealth, as amended from time to time;

"the fund" means the *South Australian Grain Industry Trust Fund* established under the trust deed;

"grain" has the meaning assigned to that word by the Commonwealth Act;

"trustees" means the trustees appointed in accordance with the terms of the trust deed;

"the trust deed" means the trust deed approved under section 9A.

(2) Except as otherwise provided, a word or expression defined in the Commonwealth Act has the same meaning when used in this Act.

(3) In performing powers and functions in relation to barley within the meaning of the *Barley Marketing Act 1993* the Board is subject to that Act.

**Functions of Australian Wheat Board**

4. The Australian Wheat Board has the following functions in addition to those conferred on it by the Commonwealth Act:

- (a) to trade in wheat and wheat products; and
- (b) to make arrangements for the growing of wheat for the purposes of trading in wheat; and
- (c) to promote, fund or undertake research into matters related to the marketing of wheat or wheat products; and
- (d) to trade in grain (other than wheat) and grain products to the extent that trading in such grain or grain products will promote an object of the Board under the Commonwealth Act; and
- (e) to make arrangements for the growing of grain (other than wheat) for the purposes of trading in such grain; and
- (f) such other functions as are conferred on the Board by a law of the State.

**Powers of Board**

5. (1) The Board has power to do all things that are necessary or convenient to be done in connection with the performance of its functions under this Act.

(2) Without limiting the effect of subsection (1), the Board has power to do anything in connection with the performance of its functions under this Act that it may do under section 7 of the Commonwealth Act in connection with the performance of its functions under that Act.

**Directions to Board**

6. (1) Subject to this section, the Commonwealth Minister may give written directions to the Board concerning the performance of its functions and the exercise of its powers under this Act, and the Board must comply with any such directions.

(2) The provisions of section 8(2) and (3) of the Commonwealth Act apply in relation to a direction under subsection (1) as if those provisions were included in this section.

**Delegation**

7. The Board may, by instrument in writing, delegate any of its powers or functions under this Act to a person to whom powers or functions may be delegated under the Commonwealth Act.

**Application of certain provisions of Commonwealth Act**

8. The following provisions of the Commonwealth Act apply as if included in this Act:

(a) Divisions 2 and 3 of Part 4; and

(b) section 74.

**Payment by Board**

9. (1) Payment in good faith by the Board of any money payable under this Act to the person appearing to the Board to be entitled to receive it discharges the Board from any further liability in respect of that money.

(2) An assignment of money payable by the Board in respect of wheat purchased by the Board (not including a registered crop lien) is voidable at the instance of the Board.

(3) An assignment of money payable by the Board in respect of wheat purchased by the Board, being a registered crop lien, is voidable at the instance of the Board unless and until notice in writing of the registration of the lien has been furnished to the Board by the holder of the lien.

**Approval of the trust deed**

9A. (1) The Minister may approve a trust deed made for the purposes of establishing and controlling the application of a fund to be known as the *South Australian Grain Industry Trust Fund* and for other related purposes.

(2) The Minister may approve any amendment to the trust deed.

(3) The trust deed and any approved amendment to the trust deed must be promulgated by regulation.

**Administration and application of South Australian Grain Industry Trust Fund**

9B. The fund must be—

(a) administered by the trustees in accordance with the terms set out in the trust deed; and

(b) applied for the purposes set out in the trust deed.

**Research deductions**

10. (1) Subject to this section, a purchaser of wheat must, with the consent of the seller, deduct from the amount payable under the contract of sale, and pay to the Minister, an amount equal to the prescribed percentage of the value of the wheat.

(2) Subject to this section, the Minister must pay all money received by the Minister pursuant to this section to the fund.

(3) Subsection (1) does not apply—

(a) in relation to a purchaser, or purchase, of a prescribed class; or

(b) in relation to wheat where the amount required to be paid to the Minister under subsection (1) has been paid in relation to a previous contract for the sale of the wheat.

(4) A purchaser of wheat harvested in a season is to presume conclusively that the seller has consented to the making of payments under this section, but if the seller, by notice in writing given to the Minister during March in that season, indicates that he or she does not consent to the making of such payments in respect of wheat of that season, the Minister must pay to the seller the amount received by the Minister in respect of wheat of that season sold by the seller.

(5) Money received by the Minister pursuant to this section must, pending payment under subsection (2) or (4), be kept in a bank account established for that purpose or may be invested in such manner as the Minister thinks fit.

(6) Any amount earned through investment of money pursuant to subsection (5) must be paid to the fund.

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(8) Any amount to be paid to the Minister under this section in relation to a contract for the sale of wheat must be paid to the Minister no later than 21 days after payment, or the first payment, in respect of the wheat is made to the seller under the contract and any amount not so paid to the Minister may be recovered by the Minister, by action in a court of competent jurisdiction, as a debt due to the Minister.

(9) The Minister may establish a committee to advise the Minister on the percentage that should be prescribed for the purposes of this section for wheat of a season and on any other matter relating to the operation of this section on which the Minister may require the committee's advice.

(10) The committee is to consist of three persons appointed by the Minister after consultation with the Grain Section of the United Farmers and Stockowners of S.A. Incorporated.

(11) The members of the committee hold office at the pleasure of the Minister and may conduct proceedings of the committee in such manner as they think fit.

(12) The Minister may, by notice published in the *Gazette*—

(a) prescribe a percentage for the purposes of this section for wheat of a specified season;

(b) prescribe a class of purchasers or purchases to whom or to which this section is not to apply;

- (c) prescribe the manner in which the value of wheat is to be ascertained for the purposes of this section.

(13) The Minister may, by notice published in the *Gazette*, vary or revoke a notice under subsection (12).

(14) Proper accounts must be kept of all money received or paid by the Minister under this section and those accounts may at any time and must, at least once in each year, be audited by the Auditor-General.

(15) In this section—

"prescribed" means prescribed by the Minister by notice published in the *Gazette*;

"value" of wheat means its sale value ascertained in the manner prescribed.

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**Repeal and transitional provisions**

11. (1) The *Wheat Marketing Act 1984* is repealed.

(2) Notwithstanding subsection (1), the *Wheat Marketing Act 1984* (other than section 21) continues in operation in relation to—

- (a) wheat delivered to the Board before 1 July, 1989; and
- (b) wheat in respect of which a permit was issued, or an authorisation or consent was given, under that Act.

(3) For the purposes of subsection (2), a reference in the *Wheat Marketing Act 1984* to the Australian Wheat Board is, in relation to anything done or to be done after 1 July, 1989, to be read as a reference to the Board as continued in existence by the Commonwealth Act.

(4) If, on the repeal of the *Wheat Marketing Act 1984*, there is money standing to the credit of the account kept under section 22 of that Act, the money must be applied for the benefit of the wheat industry in such manner as the Commonwealth Minister, after consultation with the Grain Council, directs.

(5) A reference in any other Act to the Australian Wheat Board is, on and from the commencement of this Act, to be read as a reference to the Australian Wheat Board continued in existence under the Commonwealth Act.

**APPENDIX**

**LEGISLATIVE HISTORY**

*(entries in bold type indicate amendments incorporated since the last reprint)*

Section 3(1):	definition of "the fund" inserted by 62, 1991, s. 2(a) <b>definition of "grain" amended by 80, 1994, s. 2</b> definition of "trustees" inserted by 62, 1991, s. 2(b) definition of "the trust deed" inserted by 62, 1991, s. 2(b)
Section 3(3):	<b>inserted by 80, 1994, s. 3</b>
Sections 9A and 9B:	inserted by 62, 1991, s. 3
Section 10(2):	amended by 62, 1991, s. 4(a)
Section 10(6):	amended by 62, 1991, s. 4(b)
Section 10(7):	repealed by 62, 1991, s. 4(c)
Section 10(15):	definition of "the Wheat Research Trust Fund" repealed by 62, 1991, s. 4(d)