

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 **1 July 1999**.*

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.

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being

Wheat Marketing Act 1989 No. 66 of 1989
[Assented to 29 October 1989]¹

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]

Wheat Marketing (Grain Deductions) Amendment Act 1998 No. 44 of 1998 [Assented to 27 August 1998]²**Financial Sector Reform (South Australia) Act 1999 No. 33 of 1999 [Assented to 17 June 1999]³**

¹ Came into operation 1 July 1989: s. 2.

² Came into operation 15 October 1998: *Gaz.* 8 October 1998, p. 1058.

³ **Schedule (item 62) came into operation 1 July 1999: being the date specified under section 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act.**

NOTE:

ùAsterisks indicate repeal or deletion of text.
ùEntries appearing in bold type indicate the amendments incorporated since the last reprint.
ùFor the legislative history of the Act see Appendix.

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Wheat Marketing Act 1989

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

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- (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

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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.

Deductions for grain

10. (1) Subject to this section, a purchaser of grain must, with the consent of the seller, deduct from the amount payable under the contract of sale-

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- (a) the prescribed amount for grain research purposes; and
 - (b) the prescribed amount for the purposes of the Grain Section of the South Australian Farmers Federation Incorporated ("**SAFF**").
- (2) The purchaser must pay the deductions to the Minister who must, subject to subsection (4), pay-
- (a) the grain research deduction to the fund; and
 - (b) the SAFF deduction to the Grain Section of SAFF.
- (3) Subsection (1) does not apply-
- (a) in relation to a purchaser, or purchase, of a prescribed class; or
 - (b) in relation to grain 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 grain.
- (4) A purchaser of grain 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 grain of that season, the Minister must pay to the seller the amount received by the Minister in respect of grain 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 ADI accounts 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-
- (a) in the case of the grain research deduction-to the fund;
 - (b) in the case of the SAFF deduction-to the Grain Section of SAFF.
- (7) The Minister may debit from the SAFF deduction the

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reasonable costs of receiving and paying out the SAFF deduction to the Grain Section of SAFF.

(8) Any amount to be paid to the Minister under this section in relation to a contract for the sale of grain must be paid to the Minister no later than 21 days after payment, or the first payment, in respect of the grain 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 rates that should be fixed as the prescribed rates for grain 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 SAFF.

(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) fix-

(i) an amount per tonne of grain as the prescribed rate for the grain research deduction; and

(ii) an amount per tonne of grain as the prescribed rate for the SAFF deduction;

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

* * * * *

(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-

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"prescribed amount", in relation to a seller, means the amount obtained by multiplying the number of tonnes (rounded up to the nearest whole number) of grain of the season purchased from the seller by the prescribed rate for the season;

"prescribed rate", in relation to grain of a season, means-

- (a) the amount per tonne of grain fixed by the Minister under subsection (12) for grain of a season as the prescribed rate for the grain research deduction; or
- (b) the amount per tonne of grain fixed by the Minister under subsection (12) for grain of the season as the prescribed rate for the SAFF deduction;

"purchaser" of grain includes the Australian Barley Board established under the *Barley Marketing Act 1993*.

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

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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.

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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) definition of "grain" amended by 80, 1994, s. 2 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):	inserted by 80, 1994, s. 3
Sections 9A and 9B:	inserted by 62, 1991, s. 3
Section 10(1):	substituted by 44, 1998, s. 3(a)
Section 10(2):	amended by 62, 1991, s. 4(a); substituted by 44, 1998, s. 3(a)
Section 10(3):	amended by 44, 1998, s. 3(b)
Section 10(4):	amended by 44, 1998, s. 3(c)
Section 10(5):	amended by 44, 1998, s. 3(d); 33, 1999, Sched. (item 62)
Section 10(6):	amended by 62, 1991, s. 4(b); 44, 1998, s. 3(e)
Section 10(7):	repealed by 62, 1991, s. 4(c); inserted by 44, 1998, s. 3(f)
Section 10(8):	amended by 44, 1998, s. 3(g)
Section 10(9):	amended by 44, 1998, s. 3(h)
Section 10(10):	amended by 44, 1998, s. 3(i)
Section 10(12):	amended by 44, 1998, s. 3(j)
Section 10(12)(c):	repealed by 44, 1998, s. 3(k)
Section 10(15):	amended by 62, 1991, s. 4(d); substituted by 44, 1998, s. 3(l)