

# WHEAT MARKETING ACT 1989 No. 211

NEW SOUTH WALES



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**WHEAT MARKETING ACT 1989 No. 211**

**NEW SOUTH WALES**



**Act No. 211, 1989**

An Act relating to the marketing of wheat and other grains; to repeal the Wheat Marketing Act 1984; and for other purposes. [Assented to 21 December 1989]

*Wheat Marketing 1989*

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**The Legislature of New South Wales enacts:**

**Short title**

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

**Commencement**

2. This Act is to be taken to have commenced on 1 July 1989.

**Repeal of Wheat Marketing Act 1984 No. 115**

3. The Wheat Marketing Act 1984 is repealed.

**Interpretation**

4. (1) In this Act:

"Commonwealth Act" means the Wheat Marketing Act 1989 of the Commonwealth.

(2) Words and expressions in this Act have the same meaning as they have in the Commonwealth Act.

- (3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

**Act to apply subject to Commonwealth Constitution**

5. (1) This Act is to be construed subject to the Constitution of the Commonwealth and so as not to exceed the legislative power of the State, to the intent that where this Act, or any provision of this Act, would, but for this section, have been construed as being in excess of that power, it is nevertheless valid to the extent to which it is not in excess of that power.

(2) If, because of the Constitution of the Commonwealth, a provision of this Act cannot validly apply in relation to any particular grain, the provision is to be construed as intended to operate in relation to all grain to which it purports to apply and to which it can validly apply.

**Functions of the Australian Wheat Board**

6. (1) For the purposes of section 6 (4) of the Commonwealth Act, the following functions are conferred on the Board:

- (a) to trade in wheat and wheat products;
- (b) to make arrangements for the growing of wheat for the purpose of trading in wheat;
- (c) to promote, fund or undertake research into matters related to the marketing of wheat or wheat products;
- (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;
- (e) to make arrangements for the growing of grain other than wheat for the purpose of trading in such grain;
- (f) such other functions as are given to the Board by a law of the State.

(2) The functions are only conferred on the Board to the extent that their exercise will not be inconsistent with the Marketing of Primary Products Act 1983.

**Powers of the Board**

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

(2) Without limiting the generality of subsection (1), the Board has power to do anything in connection with the exercise of its functions under this Act that it may do in accordance with section 7 (2), (3), (10) and (11) of the Commonwealth Act.

(3) For the purposes of subsection (2), a reference in section 7 (2) (p) of the Commonwealth Act to the Minister is to be read as a reference to the Minister administering this Act.

(4) The Board may have regard to any advice given to it by a consultative group established under section 9 of the Commonwealth Act on any matter relating to the exercise of the Board's functions under this Act.



**Directions**

8. (1) The Minister administering this Act or the Commonwealth Minister with the written consent of the Minister administering this Act may give written directions to the Board concerning the exercise of its functions.

(2) The Board must comply with directions given under this section.

(3) The provisions of section 8 (2) and (3) of the Commonwealth Act apply in relation to directions given under this section as if they were included in this Act.

**Delegations**

9. (1) The Board may delegate any of its powers and functions (other than this power of delegation) to:

(a) a person holding an appointment under the Commonwealth Act, other than a member of a Selection Committee under that Act or a member of a consultative group established under section 9 of that Act; or

(b) an employee of the Board under section 44 of that Act.

(2) A delegation under this section is to be in writing.

**Application of certain provisions of the Commonwealth Act**

10. The following provisions of the Commonwealth Act apply as if they were included in this Act:

(a) Divisions 2 and 3 of Part 4 (which deal with the purchase of and payment for wheat);

(b) section 74 (other than subsections (1) (c) and (e) and (4) (c) and (e))(which deals with futures contracts).

**Regulations**

11. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Transitional provisions**

12. (1) Despite its repeal, the Wheat Marketing Act 1984 (other than sections 7 (Directions by Commonwealth Minister), 8 (Delivery of

*Wheat Marketing 1989*

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wheat), 21 (Home consumption price of wheat) and 22 (Special account for freight to Tasmania)) continues in force:

- (a) for the purposes only of:
  - (i) the disposal of wheat delivered to the Board before 1 July 1989 or wheat in respect of which a permit was issued or authorisation or consent given under the Wheat Marketing Act 1984 of the Commonwealth or a corresponding provision of the Wheat Marketing Act 1984; and
  - (ii) the determination and enforcement of rights and liabilities in connection with the disposal of such wheat; and
  - (iii) the making of payments for such wheat; and
- (b) in connection with payments made before 1 July 1989 in relation to wheat referred to in paragraph (a).

(2) For the purpose of subsection (1), a reference in the Wheat Marketing Act 1984 to the Australian Wheat Board is, in relation to anything done or to be done after the commencement of this section, to be read as a reference to the Australian Wheat Board as continued in existence by the Commonwealth Act.

(3) 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 is to be applied for the benefit of the wheat industry in such manner as the Commonwealth Minister, after consultation with the Grains Council, directs.

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*[Minister's second reading speech made in -  
Legislative Assembly on 23 November 1989  
Legislative Council on 29 November 1989]*

FIRST PRINT

## WHEAT MARKETING BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Wheat Marketing Act 1989 of the Commonwealth put in place new marketing arrangements for the wheat industry from 1 July 1989. A major purpose of the new arrangements was to deregulate the domestic market. The Commonwealth Act provides for the continuation of the Australian Wheat Board. However the Board is now able, in addition to operating its traditional pooling arrangements for wheat, to operate commercially in the domestic market for grain and grain products to provide wheat growers with a choice of marketing options.

Full implementation of the new arrangements depends on complementary legislation being passed by the States. The object of the Bill is to implement the new marketing arrangements with effect from 1 July 1989.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the retrospective commencement of the proposed Act on 1 July 1989.

**Clause 3** repeals the Wheat Marketing Act 1984.

**Clause 4** provides for words and expressions in the proposed Act to have the same meaning as they have in the Commonwealth Act.

**Clause 5** provides that the proposed Act is to be construed so as not to exceed the legislative power of the State. The clause has a "savings" provision to ensure the validity of the Act to the extent that it is not in excess of the legislative powers of the State.



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**Clause 6** confers certain functions on the Australian Wheat Board for the purposes of section 6 (4) of the Commonwealth Act which enables the Board to exercise functions additional to those set out in the Commonwealth Act if they are conferred on it by State wheat marketing legislation. The proposed section will ensure that the Board can trade in wheat and wheat products and grain and grain products within the State. Clause 6 (2) makes it clear that the Board will, in the exercise of its functions within the State, be subject to the Marketing of Primary Products Act 1983.

**Clause 7** confers on the Board the same powers in connection with the exercise of its functions under the proposed Act as it has under sections 7 (2), (3), (10) and (11) of the Commonwealth Act. In particular the Board is able to buy and sell wheat and other grains and may enter into trading arrangements designed to maximise returns from the sale or disposal of grains.

**Clause 8** requires the Board to comply with directions given by the Minister or the Commonwealth Minister concerning the exercise of its functions. A Minister may give directions (subject to certain conditions, including notification of the Board) where necessary to ensure that the Board's operations do not conflict with major government policy. A direction must be published in the Gazette and tabled in the Parliament.

**Clause 9** provides for the Board to delegate any of its functions to a person holding an appointment under the Commonwealth Act (other than a member of a Selection Committee or consultative group established under that Act) or to an employee of the Board.

**Clause 10** effectively incorporates Divisions 2 and 3 of Part 4 (relating to purchase of, and payment for, wheat by the Board) and section 74 (relating to futures contracts) of the Commonwealth Act in the proposed Act.

**Clause 11** enables the making of regulations.

**Clause 12** provides for certain marketing arrangements under the Wheat Marketing Act 1984 of the Commonwealth and the Wheat Marketing Act 1984 to continue to apply to wheat delivered to the Board before 1 July 1989 or for the disposal of which a permit was issued or authorisation or consent given under those arrangements.

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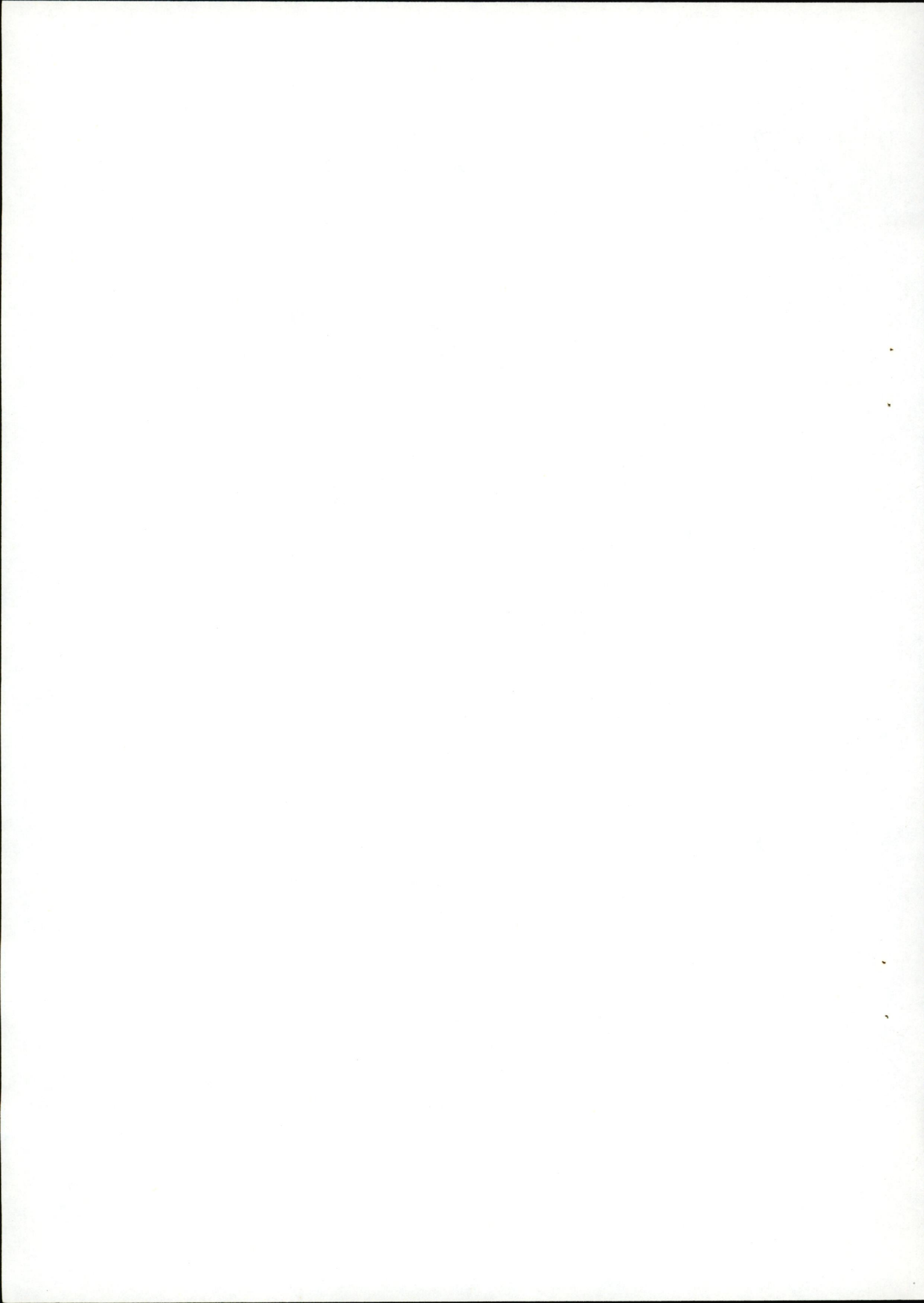
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NEW SOUTH WALES



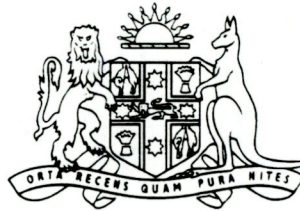
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# WHEAT MARKETING BILL 1989

NEW SOUTH WALES



No. , 1989

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## A BILL FOR

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

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