

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

WHEAT INDUSTRY FUND LEVY BILL 1989  
WHEAT INDUSTRY FUND LEVY COLLECTION BILL 1989  
WHEAT (TERMINATION OF TAX) BILL (NO 1) 1989  
WHEAT (TERMINATION OF TAX) BILL (NO 2) 1989  
WHEAT (TERMINATION OF PERMIT TAX) BILL 1989  
WHEAT TAX (PERMIT) COLLECTION AMENDMENT BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister  
for Primary Industries and Energy  
the Honourable John Kerin MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE  
BY THE HOUSE OF REPRESENTATIVES TO THE WHEAT  
INDUSTRY FUND LEVY COLLECTION BILL 1989 AS INTRODUCED

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OUTLINE

The purpose of this package of Bills is to enable the wheat industry to impose and collect a levy on wheat. The Wheat Industry Fund Levy Bill and the Wheat Industry Fund Levy Collection Bill provide for a single ad valorem levy to be paid on all wheat that is sold, or processed on the growers' behalf, from 1 July 1989. Apportionment of the levy between the Wheat Research Trust Fund established under the Rural Industries Research Act 1985 and any industry fund established under Part 6 of the Wheat Marketing Bill 1989 will be determined by the Grains Council of Australia in accordance with provisions contained in that Bill.

2. Under the present arrangements, which have operated since 1984, a research tax has been imposed on wheat delivered to or sold by the Australian Wheat Board (AWB), or sold for stockfeed purposes under a permit issued by the AWB. The tax imposed on stockfeed wheat sold under permit also comprised additional components to cover the Tasmanian Freight Levy, which was applicable to all domestic wheat sales, and a bulk handling authority charge which was imposed by some States.

3. Under provisions contained in the Wheat Marketing Bill 1989 the domestic marketing of wheat will be deregulated from 1 July 1989. This has necessitated changes in the arrangements for collection of the wheat research tax, since the AWB will no longer have control over all wheat sales. Furthermore, an industry fund may be established to enable the AWB to operate in a fully commercial manner on the deregulated domestic market, outside of the pooling arrangements and in competition with other traders.

4. Subject to a final decision on the establishment of a Grains Research and Development Corporation, expected to be made in the relatively near future, research levy monies will continue to be accounted for on a State basis and expended on the recommendations of the Wheat Research Committees in the States. The Commonwealth Government's matching contribution, which is handled through the Wheat Research Council, will also continue.

5. Any industry fund component of the levy will be paid to the AWB which will manage such a fund in accordance with regulations made under, and provisions contained in, the Wheat Marketing Bill 1989.

6. The Termination of Tax and Permit Tax Bills and the Wheat Tax (Permit) Collection Amendment Bill provide for the current wheat tax arrangements to cease on 30 June 1989. Allowance however has been made for the finalisation of payment arrangements in respect of tax imposed up to that time.

#### **FINANCIAL IMPACT STATEMENT**

7. The revenue collected for wheat research purposes under the new levy arrangements is not expected to vary from current estimates. Revenue is expected to increase to \$11.8 million by 1991/92 from the current level of around \$10.5 million. This reflects the industry's prior agreement to increase its contribution to research over a period of three years in order to move towards the ceiling of the Government's matching contribution ie 0.5% of Gross Value of Production.

8. It is estimated that the industry fund component of the levy if applicable would initially be set at a minimum of 2% of sale value. This would result in revenue and matching appropriation of an estimated \$55 million in a full year.

9. Administration of the levy collection arrangements will be undertaken within the existing resources of the Department of Primary Industries and Energy.

**NOTES ON INDIVIDUAL CLAUSES****WHEAT INDUSTRY FUND LEVY BILL 1989****Clause 1: Short title**

10. The Act will be called the Wheat Industry Fund Levy Act 1989.

**Clause 2: Commencement**

11. Provides for the Act to commence on 1 July 1989 to coincide with the commencement of deregulated marketing arrangements under the provisions of the Wheat Marketing Bill 1989.

**Clause 3: Act to be read with Collection Act**

12. Provides for the Wheat Industry Fund Levy Collection Bill 1989 to be incorporated and read with this Act.

**Clause 4: Application to Crown**

13. Formal

**Clause 5: Imposition of levy**

14. Imposes a levy on wheat grown in Australia which is sold by the grower or delivered to the Australian Wheat Board or to a State Marketing person or body other than for storage. Wheat which is processed either by the grower or by another person on behalf of the grower is also subject to the levy, subject to the exemption under Clause 8 covering own use.

**Clause 6: Rate of levy**

15. Imposes a maximum rate of levy of 5% of the value of wheat as defined in the Levy Collection Bill. Provision is made for the operational rate of levy to be determined by regulations although the minimum rate cannot be lower than 2.25% of sale value if an industry fund is established or 0.25% of sale value in the absence of such a fund (sub-clause 9(3)).

**Clause 7: By whom levy payable**

16. Provides for the grower of the wheat to be liable to pay the levy. However to facilitate the payment of the levy the Collection Bill has provision for the purchaser or receiver of wheat to make payments on behalf of the grower.

**Clause 8: Exemption from levy**

17. Provision is made for growers who sell and/or process only small quantities of wheat in any year to be exempt from the levy as it is generally uneconomic to administer and police the collection of a number of small levy payments. The minimum amount for the purposes of this provision will be set by regulation. Growers are also exempted from paying the levy where the products from the processing of their wheat are used on a non-commercial basis within their household or on their farm.

**Clause 9: Regulations**

18. Provides for regulations to be made particularly for determining the operational ad valorem rate of levy. It also provides for the Grains Council of Australia to make recommendations concerning the actual rate of levy where this is lower than the established maximum and the minimum amounts below which the levy is not payable.

WHEAT INDUSTRY FUND LEVY COLLECTION BILL 1989Clause 1: Short title

19. The Act will be called the Wheat Industry Fund Levy Collection Act 1989

Clause 2: Commencement

20. Provides for the Act to commence on 1 July 1989 to coincide with the commencement of deregulated marketing arrangements under provisions of the Wheat Marketing Bill 1989 and the imposition of a wheat levy under provisions of the Wheat Industry Fund Levy Bill 1989.

Clause 3: Interpretation

21. Defines terms which are used in this Bill and the associated Levy Bill. In particular delivery of wheat does not include the transfer of wheat from the grower to another person or persons for transportation purposes only. A change of possession or control of the wheat is necessary for delivery to occur. Sub-clause 3(4) defines "grower" in the case of wheat grown under contract or similar arrangements.

22. Value for the purposes of imposition of the wheat levy is taken to be the sales value as prescribed in regulations.

Clause 4: Application to the Crown

23. Formal

Clause 5: Payment of levy

24. This clause provides that unless regulations provide otherwise, any levy due is payable on a quarterly basis and within 28 days of the end of each quarter. This provision also applies to growers whose exempt status no longer applies.

Clause 6: Liability of purchaser or receiver

25. Provides that, to ensure the payment of levy, a purchaser or receiver is liable to pay to the Commonwealth the amount of any levy due for payment that remains unpaid by the grower and is authorised to deduct amounts from proceeds due to the grower. Where a purchaser or receiver deducts such amounts, the grower is discharged from liability to pay the levy to the extent of the amount deducted and paid to the Commonwealth.

Clause 7: Penalty for non-payment

26. Sets the penalty for late payment of levy at 20% per annum.

Clause 8: Remission of amounts

27. Provides that the Minister or an authorised person may remit a penalty. An authorised person may not remit an amount greater than \$1,500.

**Clause 9: Recovery of levy etc**

28. Provides for the recovery of levies and penalties as debts due to the Commonwealth.

**Clause 10: Refund of levy etc**

29. Provides, in cases of overpayment of levies or penalties, for refunds by the Commonwealth or from the fund into which the amount of overpayment has been made.

**Clause 11: Power to call for information**

30. Provides that an authorised person may write to a person requiring, within a certain period, information or returns needed to give effect to the Act.

31. Increasingly, business data are being stored in a form such as on computer tape that is only machine-readable, and therefore in a form that is not immediately intelligible. Section 25A of the Acts Interpretation Act provides that, if records are kept in this way, then any request for information from them under the Act requires the information to be supplied in writing that is capable of being understood.

32. The time needed for converting the records into a form which can be understood readily will depend on the particular circumstances, including the volume of information required, where the records are stored and availability of machines to read and print the records. Clause 11 takes account of this by providing for the authorised person to nominate in the notice a reasonable time within which the information is to be provided. This provision would enable an authorised person, when visiting the premises where records are kept, to request in writing that understandable information be provided very quickly if that is appropriate in all the circumstances.

**Clause 12: Powers of authorised persons in relation to premises****Clause 13: Seizure****Clause 14: Warrant to enter premises**

33. These provisions set out the powers of entry and inspection available to authorised persons to investigate matters regulated by the Act or by Regulations made under the Act and to allow seizure of evidence of the commission of an offence. These powers are principally to determine the amount of levy payable, to investigate non-payment of levy, and to investigate offences in relation to returns. Legal enforcement that arises from these investigations would in the first two cases be by civil action, and in the last case, by criminal action.

34. The purpose for which entry may be obtained would be to ascertain whether a person has contravened or is contravening a relevant provision of the Act or Regulations. A magistrate would need to be satisfied that it was reasonably necessary to issue the warrant for this purpose.

**Clause 15: Offences in relation to returns etc**

35. Details offences for failing to submit a return or information required under the Act.

**Clause 16: Conduct of directors, servants and agents**

36. Provides that, subject to certain conditions,  
(i) conduct of directors, servants or agents of a body corporate can be taken as that of the body corporate and  
(ii) conduct of agents acting for a person other than a body corporate can be taken as that of the other person.

37. Liability incurred on behalf of a person other than a body corporate by the actions of an agent is not to be met through imprisonment.

**Clause 17: Appointment of authorised persons**

38. Provides that the Secretary to the Department may appoint a person who is a public servant to be an authorised person for the purposes of a specified provision of this legislation.

**Clause 18: Identity cards**

39. Provides for issue of identity cards to, and use by, authorised persons.

**Clause 19: Review of decisions**

40. Provides that application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to remit a penalty.

**Clause 20: Delegation by Secretary**

41. Provides that the Secretary of the Department may delegate any or all of his or her powers under this legislation to an officer of the Department.

**Clause 21: Regulations**

42. Makes provision that the Governor-General may make regulations under the Act for purposes including: providing for payment of the levy on account terms and the time and the manner of payment of levy and other monies; requiring persons to keep accounts and other records in relation to wheat; requiring persons to furnish returns or information; and setting maximum penalties for offences against the regulations.

43. There is also provision for the Grains Council of Australia to make recommendations concerning the definition of "value" to be prescribed by regulation.

WHEAT (TERMINATION OF TAX) BILL (NO. 1) 1989Clause 1: Short title

43. The Act will be called the Wheat (Termination of Tax) Act (No. 1) 1989. The Wheat Tax Act 1957 is defined as the Principal Act.

Clause 2: Commencement

44. Provides for the Act to commence on 1 July 1989.

Clause 3: Interpretation

45. Recognises the Board to be the Australian Wheat Board continued in existence from 1 July 1989.

Clause 4: Imposition of tax

46. This provision limits the imposition of the research tax under the Principal Act to wheat harvested before the end of June 1989. Other provisions of the Principal Act covering payment of tax receipts by the Board to the Commonwealth will continue, to enable finalisation of the arrangements. Research tax will be collected under new levy arrangements from 1 July 1989.

WHEAT (TERMINATION OF TAX) BILL (NO. 2) 1989

Clause 1: Short title

47. The Act will be called the Wheat (Termination of Tax) Act (No. 2) 1989.

Clause 2: Commencement

48. Provides for the Act to commence on 1 July 1989.

Clause 3: Interpretation

49. This provision limits the imposition of research tax on wheat sold, but not delivered to the Board, to such wheat harvested before 30 June 1989 and not levied under the new marketing arrangements. The Board is recognised as the Australian Wheat Board continued in existence from 1 July 1989 and allowance is made for finalisation of the existing arrangements by the Board. All wheat research tax will be collected under new levy arrangements from 1 July 1989.

Clause 4: Rate of tax

50. This provision provides that wheat for which tax remains due under the Act is liable to be taxed at the rate in force at 30 June 1989.

WHEAT (TERMINATION OF PERMIT TAX) BILL 1989

Clause 1: Short title

51. The Act will be called the Wheat (Termination of Permit Tax) Act 1989.

Clause 2: Commencement

52. Provides for the Act to commence on 1 July 1989.

Clause 3: Imposition of tax

53. This clause provides that the imposition of a tax on permits issued by the Board for the sale of wheat for a stockfeed purpose shall cease after 30 June 1989. The permit scheme will not operate under new marketing arrangements which will come into effect from 1 July 1989.

WHEAT TAX (PERMIT) COLLECTION BILL 1989Clause 1: Short title

54. The Act will be called the Wheat Tax (Permit) Collection Amendment Act 1989.

Clause 2: Commencement

55. Provides for the Act to commence on 1 July 1989.

Clause 3: Interpretation

56. Recognises the Board to be the Australian Wheat Board continued in existence from 1 July 1989.

57. Provision is made to restrict the issue of stockfeed wheat permits and the collection of permit tax by the Board, to wheat harvested before the end of June 1989. However the Board will be able to finalise any payment arrangements associated with the permit scheme including refunds to tax payers as appropriate. The permit scheme will not operate under new marketing arrangements which will come into effect from 1 July 1989.





