
AGRICULTURE

AG301*

Bulk Handling Act 1967

**Bulk Handling Act Amendment
Regulations 2003**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Bulk Handling Act Amendment Regulations 2003*.

2. The regulations amended

The amendments in these regulations are to the *Bulk Handling Act Regulations 1967*.*

[* Reprinted as at 25 June 1997.

For amendments to 15 August 2003 see *Western Australian Legislation Information Tables for 2002, Table 4, p. 36, and Gazette 17 June 2003*.]

3. Regulation 2 amended

Regulation 2 is amended as follows:

- (a) by deleting the definitions of “bindweed”, “bitter seeds”, “blue kernels”, “brome” or “spear grass”, “cereal rye”, “cotton”, “damaged kernels”, “doublegee”, “drake seed”, “dry green”, “durum wheat”, “eucalyptus”, “foreign material”, “foreign seeds”, “frost affected kernels”, “grain sorghum”, “grain sorghum screen”, “heat damaged”, “heavily discoloured”, “holder”, “iron weed” or “sheep weed”, “linseed”, “lucerne”, “lupins”, “maize”, “melilotus”, “mexican poppy”, “mould affected”, “oats screen”, “objectionable foreign matter”, “rapeseed”, “red”, “Rutherglen Bug”, “safflower”, “saffron thistle”, “screenings”, “6-row barley”, “6-row barley screen”, “skinned”, “smutted”, “smut tipped”, “soya bean”, “spotted”, “sprouted”, “sunflower”,

“tares”, “thorn apple”, “2-row barley”, “2-row barley screen”, “unmillable material”, “variegated thistle”, “weather damaged”, “wheat screen”, “wild lettuce”, “wild oats”, “wild radish”, and “wimmera rye” and the full stop after it;

- (b) by deleting the definition of “ball smut” and inserting the following definition instead —

“

“**ball smut**” in relation to —

- (a) wheat means broken or unbroken smut balls (*Tilletia tritici* or *Tilletia laevis*) and flag smut (*Urocystis agropyri*);
- (b) barley means covered smut (*Ustilago segetum* var. *hordei*);

”;

- (c) by deleting the definition of “barley” and inserting the following definition instead —

“

“**barley**” means kernels of the cereal grass *Hordeum vulgare* linn;

”;

- (d) by inserting the following definitions in the appropriate alphabetical positions —

“

“**genetically modified**” means modified by gene technology within the meaning of that term in section 10(1) of the *Gene Technology Act 2000* of the Commonwealth;

“**person entitled to grain**” means a person entitled to be listed on the Company’s register referred to in regulation 10 or the holder of a valid warrant;

“**sorghum**” means kernels of the cereal grass *Sorghum bicolor*;

”;

- (e) in the definition of “quantity” by deleting “10 kg” and inserting instead —

“ 20 kg ”;

- (f) by deleting the definition of “smut” and inserting the following definition instead —

“

“**smut**” in relation to —

- (a) barley means covered smut (*Ustilago segetum* var. *hordei*);
- (b) oats means covered smut (*Ustilago segetum* var. *hordei*) and loose smut (*Ustilago avenae*);

”;

- (g) by deleting the definition of “standard” and inserting the following definition instead —

“

“**standard**” means standard adopted by the Company under section 6A of the Act;

”;

- (h) by deleting the semicolon after the definition of “wheat” and inserting a full stop instead.

4. Regulation 4 amended

Regulation 4(2) is amended by deleting “31 March” and inserting instead —

“ 30 April ”.

5. Regulations 5, 6 and 7 repealed

Regulations 5, 6 and 7 are repealed.

6. Regulation 8 replaced

Regulation 8 is repealed and the following regulation is inserted instead —

“

8. Deductions

The Company may make a deduction for shrinkage up to the rate of 1.0% of the total weight of a particular type of grain delivered to the Company.

”.

7. Regulation 9 amended

Regulation 9 is amended as follows:

- (a) by deleting paragraph (b) and inserting the following paragraph instead —

“

- (b) unique identifying number for each load of grain recorded on the ticket;

”;

- (b) by deleting paragraphs (e), (f) and (g) and inserting the following paragraphs instead —

“

- (e) name of the deliverer and his or her address;
(f) time the grain was delivered and the Gross, Tare and Nett weights of the load; and

”;

- (c) by deleting the semicolon after paragraph (h) and inserting a full stop instead;

- (d) by deleting paragraphs (i) and (j) and the “and” after paragraph (i).

8. Regulations 10, 11 and 12 replaced

Regulations 10, 11 and 12 are repealed and the following regulations are inserted instead —

“

10. Register of grain entitlements and issue of warrants

- (1) The Company shall maintain a register of grain entitlements held by the Company.
- (2) The register shall record the —
 - (a) name of the person entitled to the grain or that person's agent;
 - (b) type of grain;
 - (c) grade of grain; and
 - (d) quantity of grain.
- (3) On the request of a person entitled to grain the Company shall issue a warrant with respect to that grain.
- (4) A warrant may be transferred by the person entitled to it to another person by an endorsement of the transfer on the warrant.

11. Delivery of grain to the Company

- (1) Every person growing grain for delivery to the Company shall in each year in respect to each type of grain proposed to be delivered furnish to the Company on or before 31 August in that year or such other later date as the Company specifies an estimate showing —
 - (a) the name of the grower;
 - (b) the location numbers and total area in hectares of the farm holding on which the grain is being grown;
 - (c) the total area in hectares of arable land on the holding;
 - (d) the hectares sown of each type of grain on the holding;
 - (e) the place or places where delivery is proposed to be made; and
 - (f) such other information as the Company may require the person to provide.
- (2) Every person tendering grain to the Company shall with each load tendered deliver or cause to be delivered to the duly authorised officer of the Company at the receipt point a written statement showing in respect of the grain the —
 - (a) date of delivery;
 - (b) place of delivery;

- (c) approximate quantity tendered; and
 - (d) type of grain and its variety.
- (3) The Company shall not receive grain from a person until the statements required by subregulations (1) and (2) have been delivered.

12. Notification of arrangements to receive grain, and ceasing to receive grain

- (1) Before receiving grain at a receival point in each season, the Company shall publish the date or dates on which it proposes to commence receiving grain at the receival point and the type of grain to be received.
- (2) The Company may for any reason, including weather conditions, cease to receive grain at any receival point at any time for such period as it considers necessary.

”.

9. Regulation 13 amended

- (1) Regulation 13(1) is amended as follows:
- (a) in paragraph (c) by deleting “12” and inserting instead —
“ 14 ”;
 - (b) after paragraph (g) by inserting the following paragraphs —
“
 - (h) includes genetically modified grain;
 - (ha) contains or is contaminated by any substance that is prohibited as an additive to food under a law of the State or the Commonwealth;”.
- (2) Regulation 13(3) is amended by deleting “\$1 000” and inserting instead —
“ \$2 000 ”.

10. Regulation 14 replaced

Regulation 14 is repealed and the following regulation is inserted instead —

“

14. Taking and dealing with sample of wheat or grain

For the purposes of section 43(2a) and (4) of the Act, the officer of the Company shall —

- (a) draw a representative sample of not less than 2 litres;
- (b) divide the said sample into 2 equal sub-samples;

- (c) seal each sub-sample with a statement showing the relevant details in a sample bag supplied by the Company;
- (d) fasten securely to each of the sample bags an address label showing the date, the type of grain, the name of the grower, the name of the receival point and the letter "S";
- (e) send one sub-sample to the office of the Company;
- (f) retain the other sub-sample at the receival point; and
- (g) where a weighbridge ticket is issued, mark it or cause it to be marked with the letter "S" or other appropriate symbol in the space provided for marking the grade.

”.

11. Regulation 15 amended

- (1) Regulation 15(1) is amended as follows:
 - (a) by deleting “or dockage or both”;
 - (b) by deleting “at Perth” and inserting instead —
“ at an office of the Company nominated by it ”.
- (2) Regulation 15(2) is amended as follows:
 - (a) in paragraph (c) by deleting “at Perth” and inserting instead —
“ nominated by it ”;
 - (b) in paragraph (e) by deleting “dockage” and inserting instead —
“ the grade of the grain ”.
- (3) Regulation 15(3) is amended by deleting “and dockage”.

12. Regulation 16 amended

- (1) Regulation 16(1) is amended by deleting “or dockage or both”.
- (2) Regulation 16(2) is amended as follows:
 - (a) in paragraph (c) by deleting “in Perth” and inserting instead —
“ nominated by it ”;
 - (b) in paragraph (f) by deleting “dockage” and inserting instead —
“ the grade of the grain ”.
- (3) Regulation 16(3) is amended by deleting “an examination fee of \$72” and inserting instead —
“ the required examination fee ”.
- (4) Regulation 16(4)(a) is amended by deleting “or dockage or both”.

13. Regulation 16A repealed

Regulation 16A is repealed.

14. Regulation 17 amended

- (1) Regulation 17(1) is amended by deleting “or dockage or both in accordance with regulation 14 or 15” and inserting instead —
“ in accordance with section 43 of the Act ”.
- (2) Regulation 17(2) is amended by deleting “or dockage or both in accordance with regulation 16” and inserting instead —
“ in accordance with section 43 of the Act ”.

15. Regulation 18 repealed

Regulation 18 is repealed.

16. Regulation 19 replaced

Regulation 19 is repealed and the following regulation is inserted instead —

“

19. Request for delivery of grain and surrendering of warrants

- (1) Every person entitled to grain who wishes to obtain grain from the Company shall —
 - (a) pay to the Company —
 - (i) the charges that are ascertainable in the particular case; and
 - (ii) subject to later adjustment between the person entitled to the grain and the Company the amount of charges that are not definitely ascertainable on the date of the surrender of the warrant or the satisfaction of an entitlement to grain as calculated by the Company to the date on which it is then expected that the quantity of grain will actually be delivered;
 - (b) bear any transport charges incurred in respect of grain obtained from the Company;
 - (c) surrender to the Company any warrant relating to the grain; and
 - (d) give the Company notice at least 14 days before delivery is to commence of the preferred place of delivery.
- (2) The Company shall not deliver grain on a request made under subregulation (1) unless any warrant relating to the grain is surrendered to the Company.

”.

17. Regulation 20 replaced

Regulation 20 is repealed and the following regulation is inserted instead —

“

20. Delivery of grain

- (1) Subject to section 15 of the Act, before 1 March in any year the Company shall deliver grain at any receival point or port in the State as required by the person entitled to grain, but is not obliged to deliver grain from the particular point of receival as shown on the warrant.
- (2) Subject to section 15 of the Act, on or after 1 March in any year, the Company may deliver grain to any receival point or port in the State.

”.

18. Regulations 21 and 22 repealed

Regulations 21 and 22 are repealed.

19. Regulation 23 replaced

Regulation 23 is repealed and the following regulation is inserted instead —

“

23. Vessel to be moved once loading completed

If a person entitled to grain requires grain to be delivered to a vessel at a port, that person shall, on completion of the bulk loading and on being requested to do so, cause the vessel to be moved.

”.

20. Regulations 24 and 25 repealed

Regulations 24 and 25 are repealed.

21. Regulation 26 amended

Regulation 26 is amended as follows:

- (a) by deleting subparagraph (a)(i);
- (b) after paragraph (a) by deleting the semicolon and inserting a full stop instead;
- (c) by deleting paragraphs (b), (c) and (d).

22. Regulation 27 amended

- (1) Regulation 27(1) is amended as follows:

- (a) by deleting “, subject to allowances for dockage, deliver to the holder of a warrant” and inserting instead —
“ deliver to a person entitled to grain ”;

- (b) by deleting “in respect of which the warrant was issued” and inserting instead —
“ which is recorded on the Company’s register ”.

(2) Regulation 27(2) is amended as follows:

- (a) by deleting “holder” and inserting instead —
“ person entitled to grain ”;
- (b) by deleting “and dockage in accordance with regulation 18”.

23. Regulation 28 amended

- (1) Regulation 28 is amended by deleting “holder” in the 3 places where it occurs and inserting instead —
“ person entitled to grain ”.
- (2) Regulation 28(c) is amended by deleting “a fee of \$256.00” and inserting instead —
“ a required fee ”.

24. Regulation 29 amended

Regulation 29 is amended as follows:

- (a) by deleting “warrant holder” and inserting instead —
“ person entitled to grain ”;
- (b) in paragraph (a) by deleting “the holder” and inserting instead —
“ that person ”;
- (c) in paragraph (b) by deleting “holder” in the first 2 places where it occurs and inserting instead —
“ person entitled to grain ”;
- (d) in paragraph (b)(ii) by deleting “holder, on payment by him of a fee of \$2” and inserting instead —
“ person entitled to grain ”.

25. Regulation 30 amended

- (1) Regulation 30(1) is amended as follows:
 - (a) by deleting “holder” and inserting instead —
“ person entitled to grain ”;
 - (b) by deleting “, a fee of \$2,”;
 - (c) after paragraph (c) by inserting “and”;
 - (d) by deleting paragraph (d) and “and” after it.
- (2) Regulation 30(2) is amended by deleting “holder” in both places where it occurs and inserting instead —
“ person entitled to grain ”.

26. Regulation 31 amended

(1) Regulation 31(1) is amended as follows:

- (a) by deleting “, a fee of \$2”;
- (b) by deleting paragraph (c) and inserting the following paragraph instead —

“

- (c) person entitled to grain,

”;

- (c) after paragraph (e) by inserting “and”;
- (d) by deleting paragraph (f) and “and” after it.

(2) Regulation 31(2) is amended by deleting “holder” in both places where it occurs and inserting instead —

“ person entitled to grain ”.

27. Regulation 32 amended

Regulation 32 is amended as follows:

- (a) by deleting “this Act and those regulations” and inserting instead —
“ the Act and these regulations ”;
- (b) by deleting “holder of a warrant” and inserting instead —
“ person entitled to grain ”;
- (c) by deleting “*Arbitration Act 1895*” and inserting instead —
“ *Commercial Arbitration Act 1985* ”.

28. Fourth Schedule amended

(1) The Fourth Schedule Form 1 is deleted.

(2) The Fourth Schedule Form 2 is amended as follows:

- (a) in the heading by deleting “AND DOCKAGE”;
- (b) by deleting “and dockage/grade/dockage*” in both places where it occurs;
- (c) by deleting “and dockage/Grade/Dockage*”;
- (d) by deleting “*Cross out which does not apply.”.

(3) The Fourth Schedule Form 3 is amended as follows:

- (a) in the heading by deleting “AND DOCKAGE”;
- (b) by deleting “and dockage/grade/dockage*” in both places where it occurs;
- (c) by deleting “and dockage/Grade/Dockage*”;
- (d) by deleting “*Cross out which does not apply.”.

- (4) The Fourth Schedule Form 5 is amended by deleting “A fee of \$2 is payable to Co-operative Bulk Handling Limited, in connection with the above.”.

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.