



Western Australia

Grain Marketing Act 2002

# **Grain Marketing Regulations 2002**

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## Grain Marketing Regulations 2002

### 1. Citation

These regulations may be cited as the *Grain Marketing Regulations 2002*<sup>1</sup>.

### 2. Commencement

These regulations come into operation on the day on which the *Grain Marketing Act 2002* comes into operation<sup>1</sup>.

### 3A. Term used: final period

In these regulations —

***final period*** means the period beginning on 1 July 2008 and ending on 23 October 2009.

*[Regulation 3A inserted in Gazette 23 Oct 2009 p. 4158.]*

### 3. Seed excluded from the definition of *grain*

- (1) The seed of barley is excluded from the definition of ***grain*** in the Act if —
  - (a) it has been heated so that its starch is fully gelatinised;
  - (b) it has been de-hulled so that it is at least 95% kernel by weight;
  - (c) it has been milled into flour, at least 98% of which passes through a sieve none of the meshes of which exceed 3mm in any dimension;

- (d) it has been soaked in water then germinated then dried in a kiln so that it is malted;
  - (e) it has been steamed and flaked; or
  - (f) it has been treated, processed or otherwise dealt with so that its chemical nature or feed value have been substantially altered.
- (2) The seed of lupin is excluded from the definition of **grain** in the Act if —
- (a) it has been milled into flour, at least 98% of which passes through a sieve none of the meshes of which exceed 3mm in any dimension;
  - (b) it has been subjected to a process of de-hulling and separation into components each of which contains —
    - (i) at least 95% kernel by weight; or
    - (ii) at least 80% hull by weight;
  - (c) it has been steamed and flaked; or
  - (d) it has been treated, processed or otherwise dealt with so that its chemical nature or feed value have been substantially altered.
- (3) The seed of canola is excluded from the definition of **grain** in the Act if —
- (a) it has been converted into meal and contains less than 10% canola oil; or
  - (b) it has been treated, processed or otherwise dealt with so that its chemical nature or feed value have been substantially altered.
- (4) Seed is not excluded by subregulations (1)(f), (2)(d) or (3)(b) from the definition of **grain** in the Act only because —
- (a) its moisture content has been manipulated; or

- (b) vitamins, minerals, enzyme preparations, amino acids, fats or similar materials have been added to it.

**4A. Grain and seeds which are not prescribed grain**

The grain of barley and the seed of lupin and rapeseed are not *prescribed grain* for the purposes of the Act.

[Regulation 4A inserted in Gazette 24 Apr 2009 p. 1385.]

**4. Publication of guidelines**

- (1) A guideline or an amendment or revocation of a guideline issued by the Minister under section 16 of the Act is to be published in the *Gazette* and public notice of that publication is to be given in a daily newspaper circulating in the State and a daily newspaper circulating in the Commonwealth.
- (2) In subregulation (1) —  
*daily newspaper* means a newspaper published on each day of the week other than Saturday or Sunday, but it does not matter that the newspaper may also be published on a Saturday or Sunday.

**5. Annual fee for main export licence**

- (1) The person who is the main export licence holder at the beginning of a financial year is required to pay to the Authority for that financial year an annual fee of \$400 000 or, in respect of the final period, the amount provided for in subregulation (3B), unless subregulation (4) applies.
- (2) The period commencing on the day on which the *Grain Marketing Amendment Regulations 2003* come into operation<sup>1</sup> and ending on 30 June 2004 is to be regarded as the first financial year to which this regulation applies, and the annual fee for that year is the proportion of \$400 000 that the number of days in the period represents of a full year.
- (3A) This regulation applies to the final period as though it were a financial year.

- (3B) The annual fee for the final period is \$200 000.
- (3C) This regulation does not apply to a financial year beginning after 1 July 2008.
- (3) A fee under subregulation (1) or (2) is to be paid —
- (a) as to one half, on or before 15 November in the financial year to which it relates; and
  - (b) as to the other half, on or before 15 May in the financial year to which it relates.
- (4) A person who holds the main export licence for a period that is only a part of a financial year is required to pay to the Authority an annual fee for that financial year that is the proportion of the full annual fee that the number of days in the period represents of the full financial year.
- (5) If subregulation (4) applies to a person who has already paid a fee under subregulation (1) for the financial year concerned, the amount paid under subregulation (1) is to be credited towards the fee payable under subregulation (4) except that, to the extent, if any, that it exceeds the fee payable, it is to be refunded to the person.
- (6) A fee under subregulation (4) is to be paid within 14 days after the end of the period to which it relates.
- (7) If the total of the amounts of all revenues for a financial year, as derived from a notice published under regulation 8, exceeds the total of —
- (a) the amounts of all expenses for that year, as derived from a notice published under regulation 8, not including the amount of a rebate, if any, under this subregulation; and
  - (b) the amount, as shown in a notice published under regulation 8, of any rebate under regulation 6(2) paid during that year,



the excess is to be repaid as a rebate to the person who paid a fee under this regulation or, if more than one fee was paid for the year, is to be distributed as rebates between the persons paying in proportion to the parts of the financial year for which each of those persons paid a fee that was not refunded.

*[Regulation 5 inserted in Gazette 19 Sep 2003 p. 4115-16; amended in Gazette 23 Oct 2009 p. 4158-9.]*

## 6. Special export licence application fee

- (1) The application fee that section 35(1) of the Act requires is to accompany an application for a special export licence is as shown in the Table to this subregulation.

**Table**

<b>Matter</b>	<b>Fee</b>
Application for a special export licence for a quantity of prescribed grain of 20 000 tonnes or less	\$5 000
Application for a special export licence for a quantity of prescribed grain of more than 20 000 tonnes but not more than 50 000 tonnes	\$10 000
Application for a special export licence for a quantity of prescribed grain of more than 50 000 tonnes	\$20 000

- (2) If the amount that a person pays as a special export licence application fee exceeds the State's expenses, as shown in a notice published under regulation 8, attributable to the deciding of the application and the determination of any appeal under section 40(5) of the Act, the excess is to be repaid as a rebate to the person who paid the fee.
- (3) The rebate is payable as soon as the circumstances described in subregulation (2) are established.

*[Regulation 6 inserted in Gazette 19 Sep 2003 p. 4116-17.]*

**7. Annual fee for special export licence**

- (1) In this regulation —  
*licence year* in respect of a special export licence means a year beginning on the day the special export licence was granted or an anniversary of that day.
- (2) A person who holds a special export licence must pay to the Authority for each licence year for the whole or part of which the licence is held an annual fee of \$500.
- (3) A fee under subregulation (2) must be paid upon the grant of the licence and, during the term of the licence, at the beginning of each licence year after the licence is granted.
- (4) This regulation does not apply to a licence year beginning on or after 1 July 2009.

*[Regulation 7 inserted in Gazette 29 Dec 2006 p. 5868;  
amended in Gazette 23 Oct 2009 p. 4159.]*

**8. Minister's statement**

- (1) As soon as practicable after the end of a financial year, the Minister is to cause a notice to be published in the *Gazette* showing —
  - (a) for that year the amounts of —
    - (i) expenses attributable to the deciding of each application for a special export licence;
    - (ii) expenses attributable to the determination of each appeal under section 40(5) of the *Grain Marketing Act 2002*;
    - (iii) expenses attributable to each grant of a special export licence;
    - (iv) all other expenses incurred in administering the *Grain Marketing Act 2002*;
    - (v) revenue from each application fee for a licence;
    - (vi) revenue from other licence fees; and

- (vii) all other revenues received under the *Grain Marketing Act 2002*;
  - and
  - (b) the amount of any rebate paid under regulation 5(7) or regulation 6(2), specifying the kind of licence to which each rebate relates, and the payment to which the rebate relates.
- (2) This regulation applies to the final period as though it were a financial year.
  - (3) This regulation does not apply to a financial year beginning after 1 July 2008.

*[Regulation 8 inserted in Gazette 19 Sep 2003 p. 4117-18; amended in Gazette 23 Oct 2009 p. 4159.]*

**Notes**

- <sup>1</sup> This is a compilation of the *Grain Marketing Regulations 2002* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Grain Marketing Regulations 2002</i>	30 Oct 2002 p. 5353-7	31 Oct 2002 (see r. 2 and <i>Gazette</i> 30 Oct 2002 p. 5351)
<i>Grain Marketing Amendment Regulations 2003</i>	19 Sep 2003 p. 4115-18	19 Sep 2003
<i>Grain Marketing Amendment Regulations 2006</i>	29 Dec 2006 p. 5868	29 Dec 2006
<b>Reprint 1: The <i>Grain Marketing Regulations 2002</i> as at 6 Feb 2009</b> (includes amendments listed above)		
<i>Grain Marketing Amendment Regulations 2009</i>	24 Apr 2009 p. 1385	r. 1 & 2: 24 Apr 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Oct 2009 (see r. 2(b))
<i>Grain Marketing Amendment Regulations (No. 2) 2009</i>	23 Oct 2009 p. 4158-9	r. 1 & 2: 23 Oct 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Oct 2009 (see r. 2(b))