WHEAT DELIVERY QUOTAS ACT AMENDMENT BILL 1970

**Legislative Council, 19 November, page 2843**

Second reading

The Hon. T. M. CASEY (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Wheat Delivery Quotas Act, 1969. Read a first time.

The Hon. T. M. CASEY: I move:

*That this Bill be now read a second time.*

The principal Act, the Wheat Delivery Quotas Act, 1969, which was enacted towards the end of last year, established a scheme for allocating wheat delivery quotas for the season that commenced on October 1, 1969. It now seems likely that the system of wheat delivery quotas will remain with us until the amount of wheat in storage is reduced to more manageable proportions. Accordingly, this Bill provides for the allocation of wheat delivery quotas for future quota seasons. It is clear that in the allocation of wheat delivery quotas for the first quota season some anomalies appeared. This does not in any way reflect on the work of the quota committees which were called upon to discharge a most unenviable task.

In this Bill, power is given to the advisory committee to resolve at least some of the anomalies that appeared. In addition, as honourable members will be aware, the Government has recently appointed a committee of inquiry to examine all aspects of the allocation of wheat delivery quotas. However, in the nature of things it is unlikely that effect could be given to any recommendations of this committee of inquiry in this quota season. Accordingly, the position will again be examined in the light of that committee’s recommendations. Clauses 1 to 3 are formal or consequential upon amendments made elsewhere in the Act.

Clause 4 validates certain acts of the advisory committee. Honourable members will recall that the greater portion of the work in relation to the wheat delivery quotas was done by the gentlemen whose names are set out in section 26 of the principal Act. These gentlemen, who represented the various interests involved, were appointed by the then Government before there was any enabling legislation and in fact the principal Act was, I understand, largely the result of their recommendations and the recommendations of the industry. However, the principal Act did provide for the formal appointment of an advisory committee and, while it was intended that these gentlemen would constitute the first advisory committee, the necessity for their formal appointment was overlooked until some months ago. Accordingly, this provision validates all their actions between the time this Act came into force and the time that they were formally appointed.

Clause 5 provides for changes in the powers of the advisory committee by enabling it to allocate quotas for any quota season, since in the terms of the principal Act it could only allocate quotas for the 1969-79 season. Briefly, the system in the future will be that each production unit will have established for it a nominal quota that will be either the 1969-70 quota or the 1969-70 quota as adjusted in the manner provided in this Bill. The wheat delivery quota for a production unit for any future quota season will be the nominal quota for that production unit increased or decreased by the prescribed percentage determined for the season by the advisory committee. The prescribed percentage will be related to the amount by which, in any given quota season, the State quota exceeds or is less than 45,000,000 bushels, this figure being the State quota for the season which commenced on October 1, 1969.

Honourable members will no doubt be aware that the State quota for this season, that is, the State’s share of the amount of wheat that will attract the advance payment under the Wheat Industry Stabilization Act, is 36,000,000 bushels, being the amount fixed by the wheat industry itself through the agency of the Australian Wheatgrowers Federation. Clause 6 inserts a new section 18a and is related to the question of the contingency reserve, that is, that amount that is set aside from the State quota to be used to satisfy appeals for increased quotas; previously this amount was determined by the advisory committee alone. It is clear that the actual size of this pool is of enormous importance in determining whether or not the review committee can do substantial justice within the limits of the State quota (and I emphasize the words “within the limits of the State quota”), because all that both committees can do is to ensure a fair distribution of the fixed amount of the State quota. Accordingly, the importance of properly determining the size of this contingency reserve is recognized by ensuring that both the committees, together with a person appointed by the Minister, play a part in its determination. If, and only if, the persons who form the joint committee to fix this contingency reserve cannot agree, the Minister may himself fix the amount.

Clause 7 provides for applications for wheat delivery quotas. It is important to note here that the effect of this provision will be to limit applications from production units that have a nominal quota, that is, properties that delivered wheat during the 1969-70 season. In summary, it will be impossible, in the terms of the Act, to receive a quota in respect of land first brought into wheat production after the 1969-70 season, since every bushel of quota wheat allocated to that land would reduce the amount available for allocation to existing producers. Clause 8 amends section 22 of the principal Act to give effect to the proposals for the fixing of quotas for this season and for succeeding seasons.

Clause 9 strikes out from the principal Act the provisions that provided for the fixing of a basic quota by reference to areas of wheat planted for harvest during the 1969-70 season as an alternative to the fixing of quotas based on production over the previous five-year period. It is felt that the application of these provisions in the fixing of quotas gave rise to the greatest number of anomalies. Clause 10 provides for the fixing of special quotas for the 1969-70 season and is related to the power to adjust this quota before ascertaining a nominal quota for the property.

Clause 11, which inserts new sections 24a, 24b, 24c, 24d, 24e and 24f, sets out in some detail the basis of the future quota scheme and, accordingly, these proposed new provisions will be dealt with seriatim:

Section 24a provides for the establishment of a nominal quota for each production unit— this nominal quota will be the actual 1969-70 quota for that unit or the 1969-70 quota as adjusted in accordance with the succeeding provisions.

Section 24b excludes from the establishment of a nominal quota production unit that received a 1969-70 quota on the so-called “new ground” allocation, that is, production units that had not produced any wheat in the previous five seasons, where no wheat at all was delivered from those production units in the 1969-70 season, unless sufficient grounds can be established for the non-delivery. The reason for this provision is to ensure that such speculative applications do not prejudice existing growers.

Section 24c sets out the classes for 1969-70 quotas that may be adjusted by the advisory committee; briefly they are:

1. quotas comprised of basic quotas allocated on the basis of area sown for harvest in the 1969-70 season; and
2. quotas consisting, in part, of special quotas, and as a corollary quotas which were based on only deliveries over the five-year period will not be adjusted by unilateral action of the committee.

The reason for this adjustment provision is that it is in the classes (a) and (b) mentioned above that the bulk of the anomalies occurred. An appeal will, of course, be available against any adjustment, and a right for the holder of a wheat delivery quota to make representations before his quota is adjusted, is also provided.

Section 24d gives any wheatgrower the right to apply to the committee to have his 1969-70 quota adjusted.

Section 24e gives the committee limited power to attribute to a production unit a 1969-70 quota where, although wheat had been produced from that production unit during the whole or part of the previous five-year period, for some good and sufficient reason, no quota had been applied for the 1969-70 season.

Section 24f provides that adjustments made pursuant to the preceding sections will not affect past deliveries of wheat.

Clause 12 again enacts a number of new sections which are intended to spell out in some detail the procedure to be followed when a production unit or part of a production unit is transferred. Since in the terms of the principal Act persons occupying a production unit under lease were entitled to the allocation of a wheat delivery quota in respect of that production unit, the “falling in” of that lease has, for the purposes of these provisions, been regarded as a “transfer” of the production unit, or part, subject to the lease. The effect of the proposed new provisions may be summarized as follows:

1. both parties to the transfer must give notice of the transfer to the advisory committee;
2. if a sale of a property is involved and there has been over-quota wheat delivered from the property, the seller must give written notice to the buyer of the amount of that over-quota wheat. If the seller does not give the notice the buyer may within six months of the sale avoid the contract of sale. The purpose of this requirement is to ensure that the buyer is in the best position to determine the price he should pay for the property, since the amount of over-quota wheat that has been delivered will affect the amount of wheat that can be delivered as over-quota wheat by the buyer of the property;
3. where no over-quota wheat is involved the whole or an appropriate part of the wheat delivery quota follows the transfer of the whole or part of the production unit as the case requires; and
4. where over-quota wheat is involved, until the over-quota wheat is taken up as quota wheat, the amount of wheat that the transferee can deliver from the production unit will, in effect, be reduced by the whole of the over-quota wheat where the whole production unit has been transferred or a proportionate part of the over-quota wheat when part only of the production unit is transferred.

Clause 13 provides for a standing deputy for the Chairman of the review committee and will enable the Chairman to call on his deputy at short notice if the Chairman is for any reason unable to attend a hearing of the review committee. Clause 14 recasts the provisions of section 38 of the principal Act, which relates to the determination of appeals, to relate that determination to appeals against the establishment of nominal quotas since, in the terms of the Act as proposed to be amended, every wheat delivery quota for a particular season will bear a precise mathematical relationship to the nominal quota on which it is based; thus any variation in the nominal quota will be reflected in the quota for a particular season.

Clause 15 makes certain formal amendments to section 40 and also retrospectively validates certain exercise of jurisdiction by the review committee. In fact, the review committee purported to deal with a number of appeals that were technically out of time, on the basis that, in an exercise of this nature, consideration should be given to the substantial merits of the case rather than technicalities; for the same reason the amendment proposed by clause 16 will allow the review committee, in considering an appeal, to go outside the four corners of the notice of appeal if it considers that substantial justice will thereby be done.

Clause 17 re-enacts section 49 of the principal Act which dealt with “short falls”. Honourable members may recall that the section provided at subsection (3) that regard should be had to the amount of any short fall in allocating quotas for the next ensuing season. The amendment provides that a percentage of any short fall in one season will be added to the wheat delivery quota for the next succeeding season. The percentage, which may be up to 100 per cent to be added in any season, will be determined by the advisory committee, having regard to the total of the short falls in any season compared with the State quota for that season.

Clause 18 amends section 53 of the principal Act which deals with sales of wheat otherwise than to the Australian Wheat Board and provides for this section to have effect in relation to every quota season. Clause 19 inserts a new section 56a in the principal Act which spells out a little more clearly the rights of the Australian Wheat Board in relation to wheat delivered against a wheat delivery quota that is subsequently reduced. Adjustments made to the 1969-70 quota for the purposes of establishing a nominal quota have specifically been excluded from the operation of this section.

Clause 20 provides in effect that the decision of the review committee shall be final and without appeal. In addition, no appeal will lie from a decision of the Minister, since the only decision of consequence the Minister is required to make under this Act is to fix the amount of the contingency reserve for a quota season if the joint committees are unable to agree and it would be clearly inappropriate to have such a decision reviewable elsewhere. Finally, I should make it clear that, since the State quota has been reduced by 20 per cent (that is, from 45,000,000 bushels to 36,000,000 bushels), the wheat farmers in this State must look to an “across the board” cut in their existing quotas of the order of 20 per cent.

Although this Bill provides machinery for reducing the impact of anomalies as between individual farmers, even with the maximum use of that machinery it will be extremely unlikely that a farmer will receive a quota for this season equal in amount to his quota for last season. Such a farmer would, in fact, have had his quota for this season increased by more than 20 per cent over the quota that he would have received without the benefit of the adjustment provisions contained in this measure. Such an increase could only be made by reducing other quotas by substantially more than the 20 per cent contemplated.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.