

Queensland



*Grain Industry (Restructuring) Act 1991*

# **GRAIN INDUSTRY (HAIL COMPENSATION SCHEME) REGULATION 1992**

**Reprinted as in force on 1 October 1992  
(Regulation not amended up to this date)**

**Reprint No. 1**

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# Information about this reprint

This regulation is reprinted as at 1 October 1992.

See Endnotes for—

- details about when provisions commenced; and
- any provisions that have not commenced and are not incorporated in the reprint.

Queensland



**GRAIN INDUSTRY (HAIL  
COMPENSATION SCHEME)  
REGULATION 1992**

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# GRAIN INDUSTRY (HAIL COMPENSATION SCHEME) REGULATION 1992

[reprinted as in force on 1 October 1992<sup>2</sup>]

## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Grain Industry (Hail Compensation Scheme) Regulation 1992*<sup>3</sup>.

### Application of regulation

2.(1) This regulation sets out the terms and conditions of the hail compensation schemes maintained by Grainco under Part 5 of the Act.

(2) This regulation applies only in relation to wheat or barley that is damaged or destroyed by hail before harvest.

### Definitions

3. In this regulation—

“**crop value**” of wheat or barley means the amount determined by Grainco under section 19;

“**crop weight**” means the number of tonnes of damage or destruction caused by hail to a grower’s crop during a crop year, calculated under section 20(2), for which the grower is to be compensated;

“**crop year**” has the meaning given by section 6;

“**damaged or destroyed area**” of a grower’s crop means the area of the crop that the grower gives notice under section 9 is damaged or destroyed;

**“minor damage”** of a crop means damage or destruction of less than 75 kg/ha of the damaged or destroyed area of the crop;

**“panel of assessors”** means the list kept under section 7(3).

### **Stages in the growth of a plant**

**4.** In this regulation, the stages of growth for a wheat or barley plant are described as follows—

- (a) a plant is at the **“shot blade stage”** from when an ear has formed but is not yet visible, until the plant is out in ear;
- (b) a plant is **“out in ear”** from when the ear has completely emerged from the leaf sheath, until the plant flowers;
- (c) a plant is at the **“milky stage”** when the plant has finished flowering and the ear contains a milky substance.

### **Stages in the growth of a crop**

**5.** In this regulation, the stages of growth for a wheat or barley crop are described as follows—

- (a) a crop is at the **“shot blade stage”** when most of the plants in the crop are at the shot blade stage;
- (b) a crop is **“for the most part out in ear”** when most of the plants in the crop are out in ear;
- (c) a crop is **“fully out in ear”** from the time that—
  - (i) all of the plants in the crop are out in ear; or
  - (ii) at least half of the plants have reached the milky stage;whichever occurs first.

### **Meaning of “crop year”**

**6.(1)** Subject to this section, in this regulation—

**“crop year”** means the period from 1 February in a year until 31 January in the following year.

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(2) Grainco may determine that a crop year is to finish on a day other than 31 January if it considers it appropriate to do so, having regard to climatic and other seasonal crop conditions.

(3) If Grainco determines a different finish to a crop year—

- (a) the next crop year starts on the day after the crop year finishes; and
- (b) Grainco must notify growers, by public notice or other suitable means, of the day it has determined the crop year is to finish.

(4) The first crop year starts on the day that this section commences and, subject to subsection (2), finishes on 31 January 1993.

### **Appointment of assessors**

7.(1) Grainco may, by a written instrument, appoint a suitable person to be an assessor.

(2) An assessor—

- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
- (b) may resign office by writing signed and given to Grainco.

(3) Grainco must keep up to date a list of the names of persons currently appointed as assessors.

(4) In this section—

**“suitable person”** means a person—

- (a) who is neither a director of Grainco nor an employee of Grainco; and
- (b) who the Board of Grainco is satisfied has the necessary expertise or experience to be an assessor.

## **PART 2—NOTIFICATION OF DAMAGE**

### **Prescribed time for notification of damage**

**8.** For the purposes of this Part, the prescribed time for notifying Grainco after a grower's crop is damaged or destroyed by hail is 2 business days after the damage or destruction occurs.

### **Notification of damage**

**9.(1)** Subject to subsection (3), if a grower's crop is damaged or destroyed by hail, the grower must give a written notice to Grainco within the prescribed time.<sup>1</sup>

**(2)** The notice must include—

- (a) the grower's name and address; and
- (b) the location of the damaged or destroyed area; and
- (c) the variety and stage of growth of the crop in the damaged or destroyed area; and
- (d) to the best of the grower's knowledge—
  - (i) an estimate of the extent of the damage; and
  - (ii) the time and day that the damage occurred.

**(3)** It is sufficient compliance with subsection (1) if a grower—

- (a) notifies Grainco orally within the prescribed time; and
- (b) confirms in writing as soon as is practicable that the information given orally was correct.

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<sup>1</sup> The notice may be sent to—  
Grainco  
P.O. Box 1953  
Toowoomba Q 4350  
Fax: (076)353334;  
or delivered to—  
Grainco  
619 Ruthven St  
Toowoomba.

### **Failure to notify damage within the prescribed time**

**10.(1)** If a grower does not notify Grainco under section 9 within the prescribed time, the grower must pay to Grainco—

- (a) any additional cost of having an assessor attend to inspect the damaged or destroyed area; and
- (b) any other cost;

that Grainco reasonably considers would not have been incurred if the notice had been given on time.

**(2)** Grainco may waive the costs mentioned in subsection (1) if it considers it is reasonable in all the circumstances to do so.

## **PART 3—ASSESSMENT OF DAMAGE**

### **Making of an assessment**

**11.(1)** An assessment of a damaged or destroyed area of a crop made under this Part must contain—

- (a) the assessor's name; and
- (b) the grower's name and address; and
- (c) the variety and stage of growth of the crop in the damaged or destroyed area; and
- (d) an estimate of—
  - (i) the number of hectares; and
  - (ii) the number of tonnes of the crop; damaged or destroyed by hail.

**(2)** In making an estimate under subsection (1)(d), an assessor must consider—

- (a) any evidence of the condition and health of the crop before the damage or destruction by hail occurred; and

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- (b) any evidence that the crop has, before the time that the damage or destruction by hail occurred, been damaged or destroyed by anything other than hail (for example, by cattle grazing in the crop); and
- (c) the stage of growth of the crop.

(3) For each assessment received under this Part, Grainco must determine a final figure equal to—

- (a) if the assessment relates to the first notice given under section 9 by the grower in that crop year for the damaged or destroyed area—the total number of tonnes of damage or destruction estimated under subsection (1)(d), less 75 kg for each hectare covered by the assessment; or
- (b) in any other case—the total number of tonnes of damage or destruction estimated under subsection (1)(d).

### **Assessment of damaged crops at the shot blade stage**

**12.(1)** This section applies only in respect of a crop at the shot blade stage.

(2) As soon as is practicable after receiving notice from a grower under section 9, Grainco must have an assessor inspect the damaged or destroyed area and make a first assessment.

(3) Unless the first assessment is that the entire crop is destroyed, Grainco must have an assessor inspect the damaged or destroyed area again before the crop is harvested and make a second assessment.

(4) If a second assessment has not been made, the grower must, at least 1 week before harvesting the crop, give to Grainco written notice of the day the grower intends to harvest the crop.

(5) After making an assessment, the assessor must give—

- (a) a copy of the assessment to the grower before leaving the property; and
- (b) the assessment to Grainco as soon as is practicable.

### **Assessment of other crops**

**13.(1)** This section applies in respect of a crop other than a crop mentioned in section 12.

**(2)** As soon as is practicable after receiving notice from a grower under section 9, Grainco must have an assessor inspect the damaged or destroyed area and make an assessment.

**(3)** The assessor must give—

- (a) a copy of the assessment to the grower before leaving the property; and
- (b) the assessment to Grainco as soon as is practicable.

### **Grower may request an umpire's assessment**

**14.(1)** A grower who has received an assessment may, subject to subsection (3), request an umpire's assessment by giving a written notice—

- (a) to the assessor upon receiving a copy of the assessment; or
- (b) to Grainco within 2 business days after receiving a copy of the assessment.<sup>2</sup>

**(2)** An assessor who receives a request under subsection (1) must give the request to Grainco with the assessment to which it relates.

**(3)** Grainco may allow a grower to give the request after 2 business days after receiving a copy of the assessment if it considers that it would be reasonable in all the circumstances to do so.

**(4)** The request must be accompanied by a fee of \$50.00.

### **Grainco may request an umpire's assessment**

**15.(1)** Grainco may, subject to subsection (2), request an umpire's assessment by giving a written notice to the assessor and to the grower within 2 business days after receiving the assessment to which it relates.

**(2)** Grainco may, if it is not practicable in all the circumstances to give the

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<sup>2</sup> See footnote 1 (to section 9) for Grainco's address.

notice within 2 business days after receiving the assessment, give the notice after that time, but it must do so as soon as is practicable.

### **Appointment of an umpire**

**16.(1)** The grower and Grainco may agree on an assessor to act as umpire.

**(2)** If agreement cannot be reached within 48 hours of the time that Grainco receives a request under section 14 or gives a notice under section 15—

- (a) Grainco must compile a list consisting of each name from the panel of assessors except—
  - (i) the assessor who made the original assessment; and
  - (ii) the assessors mentioned in subsection (1); and
  - (iii) any assessor who is not available to act, or is situated so far from the property to be assessed that, in Grainco's reasonable opinion, it would be impractical to include the assessor; and
  - (iv) any assessor who Grainco reasonably considers is related to or associated with the grower; and
- (b) the chief executive or a director of Grainco must choose an assessor from the list by lot.

### **Assessment by umpire**

**17.(1)** Grainco must, as soon as is practicable after an umpire has been agreed upon or chosen under section 16, have the umpire inspect the damaged or destroyed area and make an assessment.

**(2)** The umpire must give—

- (a) a copy of the assessment to the grower before leaving the property; and
- (b) the assessment to Grainco as soon as is practicable.

**(3)** If the umpire's assessment of the damage or destruction is greater

than the assessment made prior to the umpire's assessment, Grainco must repay to the grower any fee paid by the grower under section 14.

## **PART 4—AMOUNT OF COMPENSATION**

### **Minor damage**

**18.(1)** If a grower notifies Grainco of a damaged or destroyed area under this regulation, or requests an assessor to inspect such an area, and the damage or destruction in the area is assessed as minor damage—

- (a) no compensation is payable in respect of the area; and
- (b) Grainco may, unless it considers it would be unreasonable in all the circumstances, charge the grower the cost of having an assessor inspect the area.

**(2)** A grower must pay an amount charged under this section.

### **Grainco to determine crop value**

**19.(1)** By 31 March each year, Grainco must determine—

- (a) the amount per tonne of wheat; and
- (b) the amount per tonne of barley;

that is to be paid as compensation for damage or destruction to crops caused by hail during the crop year that has finished, or will finish, closest to the day of the determination.

**(2)** In making the determination, Grainco—

- (a) must consider—
  - (i) in respect of the compensation to be paid for wheat—the market value of the vested wheat for the crop year; and
  - (ii) in respect of the compensation to be paid for barley—the market value of the vested barley for the crop year; and

- (b) must not consider the grade or variety of the damaged or destroyed crops.

### **Amount of damage for which a grower is to be compensated**

**20.(1)** The number of tonnes of damage or destruction caused by hail to a grower's crop for which the grower is to be compensated, in respect of a notice given under section 9, is—

- (a) the final figure determined under section 11(3)—
  - (i) if an umpire's assessment has been made—for the umpire's assessment; or
  - (ii) in any other case—for the assessment made under section 12 or 13; or
- (b) the amount calculated under the relevant compensation limit;

whichever is less.

**(2)** The number of tonnes of damage or destruction caused by hail to a grower's crop during a crop year, for which the grower is to be compensated, is the total of the amounts determined under subsection (1) for notices given by the grower during the crop year.

### **Compensation limits**

**21.** For the purposes of section 20, the compensation limits are—

- (a) for a claim that relates to a crop fully out in ear—no limit; or
- (b) for a claim that relates to a crop for the most part out in ear—
  - (i) for wheat—2.5 t/ha; or
  - (ii) for barley—2.75 t/ha;of the damaged or destroyed area; or
- (c) for a claim that relates to a crop at the shot blade stage—
  - (i) for wheat—1.75 t/ha; or
  - (ii) for barley—2 t/ha;

of the damaged or destroyed area.

### **Grainco must pay compensation**

**22.(1)** As soon as is practicable after making a determination under section 19 in respect of a crop year, Grainco must pay compensation to a grower for the damage or destruction caused by hail to the grower's crop during the crop year, in accordance with the formula—

$$\text{compensation} = \text{CV} \times \text{CW}.$$

**(2)** In subsection (1)—

“**CV**” is the crop value; and

“**CW**” is the crop weight.

## ENDNOTES

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### 2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. However, no amendments have commenced operation before that day. Future amendments of the *Grain Industry (Hail Compensation Scheme) Regulation 1992* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

### 3 List of legislation

**Grain Industry (Hail Compensation Scheme) Regulation 1992 SL No. 251**  
notfd Gaz 14 August 1992 pp 2892–3  
commenced on date of notification