



Tasmanian Wheat Freight Scheme

I, **JIM LLOYD**, Minister for Territories, Local Government and Roads, establish the Tasmanian Wheat Freight Scheme and make the directions set out below for implementation of the Scheme.

Dated January 2006

Signed 25 January 2006

JIM LLOYD

Minister for Territories, Local Government and Roads

Contents

	Page
1. Establishment of the Scheme.....	2
2. Eligibility for subsidy	2
3. Claims.....	2
4. Payment	4
5. Review of decisions.....	4
6. Authorisation	5
7. Audit, etc	5
8. Annual review of funding.....	6
9. Amendments.....	6
10. Publication on Internet	6
11. Transitional.....	6
12. Interpretation	6
13. Definitions	6

1. Establishment of the Scheme

- 1.1 The Scheme is established to subsidise the cost of shipments of Bulk Wheat from the mainland to Tasmania by sea.
- 1.2 Subject to an annual appropriation by the Commonwealth Parliament, up to \$1.05m is available in a Financial Year for distribution under the Scheme.
- 1.3 The payment of any subsidy under the Scheme is discretionary and the amount of any subsidy is dependent on the level of annual funding available for the Scheme in each Financial Year. These directions do not constitute an offer to provide a subsidy to any person and do not give rise to any entitlement to a subsidy.

2. Eligibility for subsidy

- 2.1 Subject to this clause, a Shipper may be eligible for a subsidy, at the rate of up to \$20.65 per tonne, in respect of the Freight Costs of a shipment of Bulk Wheat by sea from the mainland to Tasmania in a Financial Year.
- 2.2 The Minister may, at any time, with notice, alter the rate of the subsidy.
- 2.3 Shipments of wheat made before 1 July 2004 are ineligible for a subsidy under the Scheme but may be eligible under the guidelines of the Tasmanian Wheat Freight Subsidy Scheme, previously administered by the Tasmanian Department of Primary Industries, Water and Environment on behalf of the Australian Government - Department of Agriculture, Fisheries and Forestry. Claims in relation to such shipments should be directed to the Tasmanian Department of Infrastructure, Energy and Resources.
- 2.4 The subsidy is not available for shipments of wheat:
- (a) in shipping containers, crates or other forms of pre-shipment packaging; or
 - (b) for which a claim for assistance has been made under the Tasmanian Freight Equalisation Scheme, being the Scheme of that name administered under directions first issued by the Minister on 10 April 2002
- 2.5 A Shipper is not eligible for a subsidy unless the Shipper has an Australian Business Number (ABN).
- 2.6 The total amount of the subsidy is not to exceed the Freight Costs incurred by the Shipper.

3. Claims

- 3.1 A claim for a subsidy in relation to a shipment of Bulk Wheat:
- (a) must be submitted to the Secretary by hand or by post in the Approved form at either of the following addresses:

Tasmanian Assistance Services
Level 10, Tower Block
188 Collins Street
HOBART TAS 7000

Tasmanian Assistance Services
GPO Box 1269
HOBART TAS 7001

- (b) must be accompanied by Evidence of Shipment;
- (c) must specify:
 - (i) the name of the Shipper;
 - (ii) the date of shipment;
 - (iii) the tonnage, route and total cost of shipment;
 - (iv) the port of lading and the port of discharge; and
 - (v) the Freight Costs;
- (d) must include a statutory declaration that:
 - (i) the person signing the claim form has authority to do so;
 - (ii) the claimant was the Shipper of the wheat;
 - (iii) the claimant is or was liable to pay the Freight Costs; and
 - (iv) the information contained in the claim is accurate and is not false or misleading in any particular; and
- (e) must be made within 90 days of the date of shipment, or such other period as, in the special circumstances of the claimant, is Approved by the Secretary.

3.2 The Evidence of Shipment accompanying the claim must show:

- (a) the name and principal place of business of the carrier;
- (b) the number of original copies of the Sea Carriage Documents, if more than one;
- (c) the place at which the Sea Carriage Documents were issued; and
- (d) the signature of the carrier or of a person acting on the carrier's behalf.

3.3 If the claimant is a corporation, the Managing Director or other person entitled to preside at a meeting of the board, or a person nominated by the Managing Director or other person, must sign the claim form.

3.4 If the claimant is a partnership, the Managing Partner of the partnership or other person entitled to preside at a general meeting of partners, or a person nominated by the Managing Partner or other person, must sign the claim form.

3.5 If the claimant is a trust, the trustee or a director of the trustee, or a person nominated by the trustee or a director, must sign the claim form.

3.6 If a claim form is signed by a person nominated in accordance with subclause 3.3, 3.4 or 3.5, the instrument of nomination must be, or must have been, supplied to the Secretary.

3.7 All documentation accompanying the claim form must be original documentation. If the claimant wants original documents to be returned, certified copies must also be supplied. If certified copies are supplied, original documents will be returned once the claim is determined.

3.8 Photocopies of documents are not acceptable to support a claim unless:

- (a) they are accompanied by a written statement explaining why original documents are not available; and

(b) the Secretary accepts the explanation.

3.9 The Financial Year to which a claim relates is determined by the date of shipment.

4. Payment

4.1 The Secretary may, if the Secretary is satisfied that the claimant is eligible for a subsidy, make a payment to the claimant.

4.2 If information supplied in or with the claim is incomplete or insufficient, the Secretary may withhold payment until the requisite information is supplied.

4.3 The Secretary may seek information from a third party to verify a claim.

4.4 Payments under the Scheme will be made directly to the claimant's bank or other account nominated in the claim form.

4.5 The Secretary will endeavour to ensure that payments are made in the order of receipt of claims.

4.6 If during a Financial Year available funds under the Scheme have been fully expended, the Secretary may, at the Secretary's discretion, withhold until the next Financial Year the making of any payment.

4.7 Nothing in subclause 4.6 limits or restricts the Secretary's power to suspend or withhold payment of a subsidy in such circumstances as the Secretary considers appropriate.

4.8 Payment of a subsidy in respect of the Freight Costs of a shipment may be made once only whether or not more than one claim is made in relation to the shipment.

4.9 If a payment is made and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount is repayable on demand and, if not repaid, may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person in a Court of competent jurisdiction.

4.10 If the Secretary considers that a claimant has been underpaid for any reason, the Secretary may make a further payment to the claimant of an amount equal to the amount of the underpayment.

5. Review of decisions

5.1 If:

(a) a claim is refused; or

(b) a claimant considers that the amount paid is less than the amount that should have been paid;

the claimant may, within 90 days of the date on which the claimant was notified of that refusal or payment, request a review of the decision.

5.2 Within 28 days of receipt of the request by the Secretary, a person (**review officer**) other than the decision maker who is authorised by the Secretary to do so, must review the decision.

5.3 The review officer must:

(a) make a decision in writing (**reassessment decision**) affirming or varying the decision;

(b) give reasons in writing for the reassessment decision; and

(c) furnish the claimant with a copy of the reassessment decision and of the reasons for the reassessment decision.

- 5.4 If the claimant is dissatisfied with the reassessment decision, the claimant may, within 28 days of the date on which the claimant was notified of the reassessment decision, request a review of the reassessment decision.
- 5.5 The Secretary must, within 28 days of receipt of the request, arrange for the General Manager to review the reassessment decision.
- 5.6 The General Manager must:
- (a) make a decision in writing (**General Manager decision**) affirming or varying the reassessment decision;
 - (b) give reasons in writing for the General Manager decision; and
 - (c) furnish the claimant with a copy of the General Manager decision and of the reasons for the General Manager decision.
- 5.7 A request under subclause 5.1 or 5.4:
- (a) must be made to the Secretary in writing;
 - (b) need not be made in any special form;
 - (c) must contain a statement of the reasons for the request; and
 - (d) must be supported by appropriate documentary evidence.

6. Authorisation

- 6.1 The Secretary may authorise an APS employee or APS employees within the Department to administer the Scheme on the Secretary's behalf and may enter into an arrangement with a person or entity (**administrator**) to deliver, in the name of the Secretary, such services in support of the Scheme as are set out in the terms of the arrangement.
- 6.2 The administrator may authorise the recovery of overpayments of \$20,000 or less.
- 6.3 The General Manager may authorise the recovery of overpayments of any amount.
- 6.4 The administrator may authorise payments pursuant to subclause 4.10 of \$20,000 or less.
- 6.5 The General Manager may authorise payments pursuant to subclause 4.10 of any amount.

7. Audit, etc

- 7.1 The Secretary may require a claimant to provide a statement certified by an Auditor which states that, in the Auditor's opinion, the Freight Costs and tonnage of Bulk Wheat the subject of the claim are accurate.
- 7.2 The Auditor-General and a person or persons authorised by the Department may, at all reasonable times, enter premises of the claimant and inspect, and make and retain copies of and take extracts from, the accounts, books, documents and other records relating to the transportation of Bulk Wheat for which a subsidy has been claimed or paid under the Scheme.
- 7.3 The Secretary may require a claimant to make and submit a statutory declaration relating to any rebates, subsidies or discounts received in respect of Freight Costs in relation to which a subsidy has been paid under the Scheme.
- 7.4 In this clause, **Auditor** means a person who is registered as an auditor in accordance with section 1280 of the *Corporations Act 2001* and who is not an employee, a member or a person employed by a member, or a public officer of the claimant.

8. Annual review of funding

These directions are to be reviewed annually by the Secretary.

9. Amendments

9.1 The Secretary may, from time to time, make amendments to these direction that relate to operational matters concerning the Scheme.

9.2 The Minister may, from time to time, make such amendments to these directions as the Minister considers appropriate, including amendments to eligibility requirements under the Scheme.

10. Publication on Internet

The Secretary must ensure that these directions, as amended from time to time, the Approved claim form and any notice given by the Minister in relation to the Scheme are published on the website of the Department (www.dotars.gov.au).

11. Transitional

11.1 These directions replace directions relating to the establishment of the Scheme made by the Minister on 7 June 2005 (**former instrument**).

11.2 Any claim or payment made pursuant to the former instrument is deemed to have been made under these directions.

11.3 Despite any other provision of these directions, the Secretary may, at the Secretary's discretion, make a payment out of funds available in the Financial Year 2005 – 2006 for the purpose of the Scheme to the company that incurred costs in the Financial Year 2004 – 2005 as a result of discounts it gave Shippers of Bulk Wheat from the mainland to Tasmania in the expectation that it was entitled to a subsidy under a previous version of the Scheme.

11.4 The maximum amount of any payment under subclause 11.3 is \$81,000.

12. Interpretation

12.1 For the purposes of the Scheme, the date of shipment shown on the consignment note provided by the shipping company to the Shipper is taken to be the date of shipment.

12.2 In these directions, unless inconsistent with the context or subject matter:

- (a) words importing the singular include the plural and words importing the plural include the singular;
- (b) a word or phrase that is defined in the *Acts Interpretation Act 1901* has the same meaning as it has in that Act; and
- (c) words importing a person include a partnership and a body whether incorporated or not.

13. Definitions

In these directions:

Approved means approved in writing by the Secretary;

Auditor-General has the same meaning as the expression in the *Auditor-General Act 1997* (Cth) and includes any person authorised to carry out the functions of the Auditor-General under the Act;

Bill of Lading means a bill of lading including a bill of lading received for shipment that is capable of transfer:

- (a) by endorsement; or
- (b) as a bearer bill, by delivery without endorsement;

Bulk Wheat means wheat shipped loose in a ship's holds or tanks without any form of unitisation or packaging;

Contract of Carriage, in relation to a Sea Carriage Document, means:

- (a) in the case of a Bill of Lading or a Sea Waybill – the contract of carriage contained in, or evidenced by, the document; and
- (b) in the case of a Ship's Delivery Order – the contract of carriage in association with which the order is given;

Department means the Department of Transport and Regional Services;

Evidence of Shipment means the original Sea Carriage Document evidencing a Contract of Carriage of goods by sea, or a certified copy of such a document, and the original receipt for payment of Freight Costs by the Shipper, or a certified copy of the receipt;

Financial Year means the year which commenced on 1 July 2004 and each subsequent year;

Freight Costs means the costs to a Shipper of a Contract of Carriage including any handling, loading or discharging charges to or from a ship incidental to the Contract of Carriage, but does not include, in connection with the Contract of Carriage:

- (a) land transport costs incurred outside the terminal area;
- (b) the cost of storage or warehousing at the ports of loading or discharge;
- (c) any quarantine costs;
- (d) any insurance costs;
- (e) accounting fees or charges or charges relating to the issuing of accounts or invoices; or
- (f) any GST payable by the Shipper;

General Manager means the person from time to time occupying the position of general manager of the branch of the Department responsible for the Scheme;

GST has the meaning given to it in s195-1 of *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Sea Carriage Document means a Bill of Lading, a Sea Waybill or a Ship's Delivery Order;

Sea Waybill means a document, other than a Bill of Lading, that:

- (a) is issued by the carrier of the goods;
- (b) is a receipt for the goods;
- (c) contains or evidences a Contract of Carriage of the goods by sea; and
- (d) identifies the person to whom delivery of the goods is to be made by the carrier in accordance with the contract;

Secretary means the person from time to time occupying the position of Secretary of the Department;

Scheme means the Tasmanian Wheat Freight Scheme established under these directions;

Shipper, in relation to Bulk Wheat, means any person by whom, in whose name or on whose behalf a Contract of Carriage by sea of the wheat has been concluded with a carrier.

Ship's Delivery Order means a document other than a Bill of Lading or Sea Waybill that:

- (a) is given in association with the Contract of Carriage of goods by sea including those to which the document relates; and
- (b) contains an undertaking by the carrier to deliver the goods to which the document relates to a person identified in the document.