

USDA Foreign Agricultural Service

# GAIN Report

Global Agricultural Information Network

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**Date:** 11/03/2011

**GAIN Report Number:** CA11059

## **Canada**

**Post:** Ottawa

## **Bill C-18 - The Marketing Freedom for Grain Farmers Act**

**Approved By:**

Robin Tilsworth

**Prepared By:**

Darlene Dessureault

**Report Highlights:**

Bill C-18, also known as the *Marketing Freedom for Grain Farmers Act*, was introduced into the Canadian Parliament on October 18, 2011. This bill consists of five parts which introduce legislative changes in stages with the purpose of making possible the transition of the Canadian Wheat Board (CWB), a state trading enterprise, into a commercial enterprise. What follows is a short explanation of the legislative changes, their impacts and the anticipated timelines for each of the five sections of Bill C-18.

## **Bill C-18 – The Marketing Freedom for Grain Farmers Act**

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### **Part 1 of the Marketing Freedom for Grain Farmers Act:**

#### **Legislative Change:**

Upon receiving royal assent (meaning after the bill is approved in both houses of Parliament and cursory review and approval by the Governor General), the *Canadian Wheat Board (CWB) Act* will be amended to create a new governance structure. This new board of directors is charged with preparing the CWB to transition to voluntary pools/marketing when Part 2 of Bill C-18 comes into force.

#### **Additional Details and Impacts of Part 1 Legislative Changes:**

The board of directors is reduced from 10 farmer-elected members and five government-appointed members to five government-appointed members. The clause prohibiting the interprovincial transportation of wheat and wheat products by any other persons other than the CWB (clause 45(b)) is repealed. Section 45 of the *Canadian Wheat Board Act* is amended to allow the commencement by all (not just the CWB) of forward contracting for sales to be executed after the Part 2 of Bill C-18 comes into force. This means that Canadian grain producers can now choose with whom to contract their next crop – the Canadian Wheat Board is no longer the only option.

#### **Anticipated Timeframe for Part 1:**

Part 1 of Bill C-18 comes into force the day on which it receives royal assent and covers the timeframe from royal assent up to the moment when Part 2 of Bill C-18 comes into effect. At the rate with which this Bill is moving through the Canadian legislative process, and should no undue delays occur, this means the CWB will operate its 2011-2012 pools (current crop) under the current rules and that the CWB and any others may begin forward contracting for 2012-2013 sales (next year's crop) to be executed after August 1, 2012 when Part 2 of Bill C-18 is anticipated to come into force.

### **Part 2 of the Marketing Freedom for Grain Farmers Act:**

#### **Legislative Changes:**

Part 2 of Bill C-18 repeals the *Canadian Wheat Board Act* and replaces it with the *Canadian Wheat Board Interim Operations Act (CWB Interim Operations Act)*. The CWB's monopoly over the grain is eliminated and anyone can buy, sell and deliver any grain. The *CWB Interim Operations Act* allows the CWB to retain the government guarantees of initial payments and borrowing that existed in the previous

CWB Act.

**Additional Details and Impacts of Legislative Changes in Part 2:**

The CWB begins operations under the *CWB Interim Operations Act*. The CWB now operates voluntary pools. While the single desk powers are eliminated, the CWB retains the government guarantees of initial payments (for producers who choose to participate in the pools) and the borrowing guarantees that existed in the previous CWB Act. The CWB loses its exclusive powers to direct/ship grain. With regards to the powers to direct/ship grain, there are some transitional provisions built into the Act. Section 46 of the *CWB Interim Operations Act* extends for a period of three months the CWB's powers to direct/ship grain that has been sold and delivered to the CWB *prior* to the date when Part 2 of Bill C-18 comes into force effect (e.g. prior to August 1, 2012 if current schedule is maintained).

A check-off is created by amending/adding to section 83 of the *Canada Grains Act* to support the Canada International Grains Institute, the Western Grains Research Foundation and the Canadian Malt Barley Technical Center to replace current funding provided under the *Canadian Wheat Board Act*.

Amendments are also made to the *Seeds Act* which eliminates the import requirement of end-use certificates.

**Anticipated Timeframe for Part 2:**

The legislation in Part 2 takes effect on the coming into force date which is anticipated to be August 1, 2012. The three month extension of powers to direct/ship grain applies to grain that has been sold and delivered to the CWB prior to August 1, 2012 (so grain from crop year 2011-2012). Therefore, these powers are expected to expire on November 1, 2012.

**Part 3 of the Marketing Freedom for Grain Farmers Act:**

**Legislative Changes:**

Part 3 addresses the requirement for the CWB to commercialize within a set timeframe. Section 43 of Bill C-18 prohibits the CWB from applying for continuance (incorporation) in another jurisdiction (outside the federal jurisdiction).

**Additional Details and Impacts of Part 3 Legislative Changes:**

Part 3 comes into effect at the same time as Part 2 (same time as the *CWB Interim Operation Act* is enacted). Part 3 sets a timeframe within which the CWB must be on a clear path to commercialization while still operating under the *CWB Interim Operations Act*. Part 3 sets out a requirement that the CWB submit an application for continuance (a plan for commercialization (section 42 (1))) for approval of the Minister of Agriculture within four years or any shorter period approved by the Minister from the implementation of the *CWB Interim Operations Act* (section 42 (2)).

**Anticipated Timeframe for Part 3:**

Part 3 comes into effect with the enactment of the *CWB Interim Operations Act* (anticipated to be August 1, 2012) and ceases to have effect within five years of the enactment of the *CWB Interim Operations Act*. Therefore, the five year time limit is anticipated to end by August 1, 2017.

**Part 4 of the Marketing Freedom for Grain Farmers Act:**

**Legislative Changes:**

Part four sets out the course of action to be taken should the CWB not be commercialized within the allotted five-year timeframe. Should this happen, the CWB would be dissolved.

**Additional Details and Impacts of Part 4 Legislative Changes:**

The CWB is given five years to commercialize and should this not happen, Part 4 outlines the wind-down procedures that must be followed in terms of liquidating assets and the assignment of deficits and surpluses should the CWB be dissolved. Any surpluses that remain go to the federal government (section 51(1), any debts and liabilities become the debts and liabilities of the federal government (section 51(2)).

**Anticipated Timeframe for Part 4:**

Part 4 applies in the event that the CWB is not commercialized within five years of the enactment of the *CWB Interim Operations Act*.

**Part 5 of the Marketing Freedom for Grain Farmers Act:**

**Legislative Changes:**

Part 5 of Bill C-18 repeals the *CWB Interim Operations Act* should the CWB have succeeded in becoming commercialized within the five-year timeframe (see Part 3) or have failed and been dissolved (Part 4).

**Progress of Bill C-18, the Marketing Freedom for Grain Farmers Act:**

At the time of this report, Bill C-18 had passed first and second reading and had been referred to a legislative committee for review/study. An official copy of Bill C-18 is available at the following website:

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5174306>.

The progress of the Bill through the Canadian Parliamentary system is available from the following website:

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Mode=1&Language=E&billId=5169698&View=0>