



Western Australia

# **Agriculture and Related Resources Protection Act 1976**

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# **Agriculture and Related Resources Protection Act 1976**

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**Defined terms**



Western Australia

## **Agriculture and Related Resources Protection Act 1976**

**An Act to provide for the management, control and prevention of certain plants and animals, for the prohibition and regulation of the introduction and spread of certain plants and of the introduction, spread and keeping of certain animals, for the protection of agriculture and related resources generally, and for incidental and other purposes.**

## Part I — Preliminary

### 1. Short title

This Act may be cited as the *Agriculture and Related Resources Protection Act 1976*<sup>1</sup>.

### 2. Commencement

The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation<sup>1</sup>.

[3, 4. Deleted: No. 24 of 2007 s. 27<sup>2</sup>.]

[5. Deleted: No. 59 of 1986 s. 4.]

[6. Deleted: No. 46 of 2010 s. 5.]

### 7. Terms used

(1) In this Act unless the contrary intention appears —

**animal** means any living thing that is not a human being or a plant;

**authorised person** means a person authorised by the Director General pursuant to section 11;

**category** means a category mentioned in section 36(3) or (4);

**class**, in relation to plants or animals, means any group or grouping of plants or animals;

**Commissioner** means the Commissioner of State Revenue;

**control** —

- (a) in relation to declared plants of a class assigned to category P2 or declared animals of a class assigned to category A2, means to destroy, prevent and eradicate those plants or animals or cause those plants or animals to be destroyed, prevented and eradicated;



- (b) in relation to declared plants of a class assigned to category P3, means —
  - (i) to destroy, prevent and eradicate those plants or cause those plants to be destroyed, prevented and eradicated; or
  - (ii) to control those plants by taking or causing to be taken such measures as are approved by an inspector or authorised person to reduce the numbers or distribution of those plants;
- (c) in relation to declared plants of a class assigned to category P4, means —
  - (i) to destroy, prevent and eradicate those plants or cause those plants to be destroyed, prevented and eradicated; or
  - (ii) to control those plants by taking or causing to be taken such measures as are approved by an inspector or authorised person to prevent the spread of those plants;
- (d) in relation to declared plants of category P5, means to take or cause to be taken such action in respect of those plants as is prescribed;
- (e) in relation to declared animals of category A5, means —
  - (i) to destroy, prevent and eradicate those animals or cause those animals to be destroyed, prevented and eradicated; or
  - (ii) to control those animals by taking or causing to be taken such measures as are approved by an inspector or authorised person to reduce and restrict the number of those animals;
- (f) in relation to declared animals of category A7, means to do or cause to be done such acts, matters and things for the management and regulation of the movement, numbers and distribution of those animals as are set out in a management programme having effect in the area of

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the State in which those animal are situated and applying to animals of that class,

and inflexions and derivatives have correlative meanings;

**declaration** means a declaration made by the Minister and published in the *Gazette* and the verb **to declare** and inflexions and derivatives have correlative meanings;

**declared animal** means an animal belonging to a class of animals declared under section 35 to be declared animals and includes —

- (a) such an animal of any kind or sex; and
- (b) the egg or semen of such an animal; and
- (c) such an animal when in the larval stage or any other immature stage,

and, unless otherwise specified in a declaration under that section, includes any hybrid or cross derived from such an animal;

**Declared Pest Account** has the meaning given in the *Biosecurity and Agriculture Management Act 2007* section 6;

**declared plant** means a plant belonging to a class of plants declared under section 35 to be declared plants and includes —

- (a) any part of such a plant;
- (b) the product of such a plant;

**department** means the department principally assisting in the administration of this Act;

**Director General** means the chief executive officer of the department;

**inspector** means an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162;

**occupier**, in relation to land, means the person by whom or on whose behalf land is actually occupied, or, if there is no occupier, the person entitled to possession, and includes a person in the unauthorised occupation of Crown land, and a person who, under a licence or concession relating to specified

land vested in the Crown, has the right of taking a profit of the land, and *occupy* and inflexions and derivatives have, in relation to land, meanings correlative to “occupier”;

*owner*, in relation to land, means —

- (a) (i) a person who is in possession of the land as —
  - (A) the holder of a legal or equitable estate of freehold in possession in the land, including an estate or interest under a contract or arrangement with the Crown or any other person by virtue of which the land is held or occupied with the right to acquire the fee simple by purchase or otherwise;
  - (B) a Crown lessee or a lessee or tenant under a lease or tenancy agreement;
  - (C) a mortgagee of the land;
  - (D) a trustee, attorney or authorised agent of such a holder, lessee, tenant or mortgagee;

or

- (ii) where there is no such person in possession of the land the person who is entitled to possession in any of those capacities,

and, for the purposes of this paragraph, receipt of the rents and profits shall be regarded as possession;

- (b) a person who —
  - (i) under a licence or concession relating to specific Crown land, has the right of taking a profit of the land;
  - (ii) is lawfully entitled to occupy the land which is vested in the Crown, and which has no other owner within the meaning of this definition;

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- (iii) is in the actual occupation, with or without title, of the surface of the whole or portion of a mining tenement within the meaning of the *Mining Act 1904*<sup>3</sup>;
- (iv) has, without title, a tent, camp or other habitation on the land which is land belonging to another person;
- (v) is in the unauthorised occupation of the land which is Crown land,

and *own* and inflexions and derivatives have, in relation to land, meanings correlative to “owner”;

*pastoral lease* has the meaning ascribed to that term in and for the purposes of the *Land Administration Act 1997*;

*plant* means vegetation of any kind;

*prohibited material* —

- (a) in relation to the State generally, means a plant that is, for the time being, declared in respect of the whole of the State or any part of the State and includes any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which that plant is packed or associated;
- (b) in relation to a part of the State, means a plant that is, for the time being, declared in respect of part of the State and includes any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which that plant is packed or associated;

*train* includes a railway locomotive, railway carriage and railway wagon;

*vehicle* has the meaning given in the *Road Traffic (Administration) Act 2008* section 4;

*watercourse* includes any waters, whether running or still, permanent or temporary, or natural or artificially constructed.

- (2) For the purposes of this Act —
- (a) a reference to a class of declared plants or class of declared animals of, or assigned to, a category identified by a letter and a numeral refers to a class of declared plants or class of declared animals assigned, by declaration under section 35, to the category so identified in section 36(3) or (4);
  - (b) a reference to a declared plant or declared animal of a category identified by a letter and a numeral refers to a declared plant or declared animal of a class of declared plants or declared animals, as the case may be, assigned by declaration under section 35 to the category so identified in section 36(3) or (4).
- (3) A declared plant or declared animal shall be deemed to be on land for the purposes of this Act notwithstanding that it is on or in any watercourse on that land or is, in the case of a declared animal, in the air above that land.

*[Section 7 amended: No. 59 of 1986 s. 5; No. 14 of 1996 s. 4; No. 31 of 1997 s. 141; No. 45 of 2002 s. 7(2); No. 74 of 2003 s. 26; No. 55 of 2004 s. 24; No. 77 of 2006 Sch. 1 cl. 6(1); No. 24 of 2007 s. 27<sup>2</sup>; No. 46 of 2010 s. 6 and 55; No. 8 of 2012 s. 40.]*

## **Part II — Administration**

*[8, 9. Deleted: No. 46 of 2010 s. 7.]*

### **10. Delegation by Minister**

- (1) The Minister may delegate to the Director General any power or duty of the Minister under another provision of this Act.
- (2) The delegation must be in writing signed by the Minister.
- (3) The delegation may expressly authorise the Director General to further delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary intention is shown.
- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

*[Section 10 inserted: No. 46 of 2010 s. 8.]*

### **11A. Delegation by Director General**

- (1) The Director General may delegate to an officer of the department any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.
- (3) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary intention is shown.
- (4) Nothing in this section limits the ability of the Director General to perform a function through an officer or agent.

*[Section 11A inserted: No. 46 of 2010 s. 8.]*

**11. Authorised persons**

- (1) The Director General may, from time to time, in writing, authorise persons to take all such measures and do all such things as are necessary or convenient for controlling, and preventing the introduction and spread, of declared plants and declared animals.
- (2) Every authorised person shall, if required to do so, produce his written authority to the owner or occupier of any land or premises he may enter pursuant to the powers conferred on him by this Act.

*[Section 11 amended: No. 46 of 2010 s. 9.]*

*[12. Deleted: No. 46 of 2010 s. 10.]*

*[Part III: s. 13-16 deleted: No. 46 of 2010 s. 11;  
s. 17 deleted: No. 9 of 1998 s. 3;  
s. 18-34A deleted: No. 46 of 2010 s. 11.]*

## **Part IV — Declaration of plants and animals**

### **35. Classes of plants and animals may be declared**

- (1) The Minister may, by declaration, declare —
  - (a) plants of a class specified in the declaration to be declared plants;
  - (b) animals of a class specified in the declaration to be declared animals.
- (2) A declaration under subsection (1) in relation to a class of plants or animals shall specify —
  - (a) whether those plants or animals are declared plants or declared animals, as the case may be, in respect of the whole of the State and every part of the State or only in respect of a part or parts of the State specified in the declaration; and
  - (b) whether those plants or animals are declared generally or only in particular circumstances specified in the declaration; and
  - (c) the category or categories to which that class of declared plants or declared animals is assigned for the purposes of this Act.

*[Section 35 amended: No. 46 of 2010 s. 55(1).]*

### **36. Categories of declared plants and animals**

- (1) Subject to, and in accordance with, subsection (3) and (4), a class of declared plants or class of declared animals may, by declaration under section 35, be assigned to one or more categories for the purposes of this Act according to the measures that, in the opinion of the Minister, need to be taken in relation to declared plants or declared animals of that class in order to achieve the object of this Act.
- (2) A class of declared plants or class of declared animals may, by declaration under section 35, be assigned to different categories in respect of different parts of the State.



- (3) For the purposes of this Act a class of declared plants may be assigned to —
- (a) category P1 in respect of an area if the introduction into and movement within that area of those plants should, in the opinion of the Minister, be prohibited;
  - (b) category P2 in respect of an area if those plants should, in the opinion of the Minister, be eradicated in that area;
  - (c) category P3 in respect of an area if the numbers or distribution, or both, of those plants should, in the opinion of the Minister, be reduced in that area;
  - (d) category P4 in respect of an area if those plants should, in the opinion of the Minister, be prevented from spreading beyond the places in which they occur in that area for the time being;
  - (e) category P5 in respect of an area, if, in the opinion of the Minister, particular action should be taken in relation to those plants on land in that area that is public land or land under the control of a local government.
- (4) For the purposes of this Act a class of declared animals may be assigned to —
- (a) category A1 in respect of an area if the introduction of those animals into that area should, in the opinion of the Minister, be prohibited;
  - (b) category A2 in respect of an area if those animals —
    - (i) are not vertebrate animals native to that area; and
    - (ii) should, in the opinion of the Minister, be eradicated in that area;
  - (c) category A3 in respect of an area if the keeping of those animals in that area should, in the opinion of the Minister, be prohibited;
  - (d) category A4 in respect of an area if the introduction of those animals into that area should, in the opinion of the

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Minister, be subject to conditions and restrictions imposed by or under the regulations;

- (e) category A5 in respect of an area if the numbers of those animals in that area should, in the opinion of the Minister, be reduced and kept under restriction;
  - (f) category A6 in respect of an area if the keeping of those animals in that area should, in the opinion of the Minister, be subject to conditions and restrictions imposed by or under the regulations;
  - (g) category A7 in respect of an area if those animals are native to that area and are animals for which a management programme should, in the opinion of the Minister, be approved and published by the Minister and implemented in and in relation to that area.
- (5) In subsections (3) and (4) *area* means the whole of the State or a part of the State.

*[Section 36 amended: No. 31 of 1983 s. 3; No. 14 of 1996 s. 4; No. 46 of 2010 s. 55(1).]*

**37. List of declared animals and plants**

The Director General must —

- (a) maintain, on or accessible through the department's website, a publicly accessible list setting out —
    - (i) every class of plants or animals that is for the time being the subject of a declaration made under section 35; and
    - (ii) the matters for the time being specified under section 35(2) in relation to each class referred to in subparagraph (i);
- and
- (b) make copies of the list available to the public for inspection at the head office and regional offices of the department during business hours.

*[Section 37 inserted: No. 46 of 2010 s. 12.]*

## **Part V — Control of declared plants and declared animals**

*[Divisions 1-4 (s. 38-56) deleted: No. 24 of 2007 s. 27<sup>2</sup>.]*

### **Division 5 — Operational work**

*[Heading amended: No. 46 of 2010 s. 24.]*

**57. Term used: operational work**

In this Division *operational work* means the doing of such acts, matters and things as may be necessary for or conducive to the control of declared plants and declared animals.

**58. Operational work may be carried out**

(1) In this section —

*dwelling* has the meaning given in the *Biosecurity and Agriculture Management Act 2007* section 63.

(2A) Inspectors and authorised persons may, at any time and to such extent as the Director General may determine, carry out operational work on and in relation to any place other than a dwelling without cost to the owner or occupier of that place.

(2B) The operational work may be carried out —

- (a) out of moneys from time to time appropriated by Parliament for that purpose; or
- (b) out of moneys from time to time standing to the credit of the Declared Pest Account other than moneys derived from rates under section 60; or
- (c) on and in relation to private land held under pastoral lease out of moneys from time to time standing to the credit of the Declared Pest Account and derived from rates under section 60; or

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(d) on and in relation to public land, land under the control of a local government or private land pursuant to an agreement under section 41, 46 or 55.

(2) An inspector or authorised person may enter any land for the purpose of exercising powers under this section.

*[Section 58 amended: No. 14 of 1996 s. 4; No. 6 of 2006 s. 4; No. 77 of 2006 Sch. 1 cl. 6(4); No. 46 of 2010 s. 25.]*

**59. Saving provisions**

(1) The provisions of section 58 are in addition to and not in derogation of any other provision, whether of this Act or another Act, conferring power to control declared plants and declared animals.

*[(2) deleted]*

*[Section 59 amended: No. 24 of 2007 s. 27<sup>2</sup>; No. 46 of 2010 s. 26.]*

*[Division 6: s. 60, 62-65 deleted: No. 24 of 2007 s. 27<sup>2</sup>; s. 61 deleted: No. 46 of 2010 s. 28.]*

*[Divisions 7 and 8 (s. 66-70) deleted: No. 24 of 2007 s. 27<sup>2</sup>.]*

*[Part VI (s. 71-83) deleted: No. 24 of 2007 s. 27<sup>2</sup>.]*

**Part VIA — Protection of agriculture and related resources from agricultural chemicals**

**83A. Protection from agricultural chemicals**

- (1) The object of this section is to protect agriculture and related resources, from danger or detriment likely to result from the storage, use, or transport of prescribed agricultural chemicals.
- (2) A person shall not in any prescribed part of the State store, use, or transport a prescribed agricultural chemical in a manner which does not conform to the regulations.

Penalty: a fine of \$50 000.

*[Section 83A inserted: No. 55 of 1979 s. 7; amended: No. 20 of 1989 s. 3; No. 46 of 2010 s. 42 and 56.]*

## **Part VII — General**

### **Division 1 — Powers of inspectors and authorised persons**

#### **84. Power of entry**

- (1) An inspector or authorised person may, at any time, by virtue of an without warrant than the provisions of this Act enter upon land and into any premises on land, not being a dwelling house or a hut, tent, caravan or other erection used as a permanent residence, in order to —
- (a) make a search to ascertain —
    - (i) whether declared plants or declared animals are in or upon the land or premises and, if so, whether those declared plants or declared animals are being controlled as required by this Act; or
    - [(ii) deleted]*
    - (iii) whether there is any declared plant or prohibited material in or upon the land or premises that has been introduced contrary to this Act; or
    - (iv) whether there is any declared animal in or upon the land or premises that has been introduced or is being kept contrary to this Act; or
    - (v) whether any chemical is being or has been stored or used upon the land or in the premises contrary to this Act;
  - (b) patrol and inspect any fence on or bounding that land.
- (2) If it appears to a justice, on an application supported by evidence on oath or affirmation by an inspector or authorised person, that there are reasonable grounds for suspecting that there is in any of the premises excepted under subsection (1) —
- (a) any declared plant or declared animal that is required by this Act to be controlled;

- (b) any declared plant or prohibited material that has been introduced contrary to this Act;
- (c) any declared animal that has been introduced or is being kept contrary to this Act;
- (d) any chemical that is being stored or has been used contrary to this Act,

the justice may grant a warrant authorising the inspector or authorised person to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, for the purpose of searching the premises and taking such action in relation to any declared plant or declared animal or chemical found in the premises as is prescribed.

- (3) Where an inspector or authorised person enters upon or searches the enclosed garden or curtilage of a dwelling house the owner or occupier of that dwelling house may apply to the Magistrates Court for a review of the exercise of that power on the grounds there were no reasonable grounds for its exercise and the court shall inquire into the matter and make its findings known to the applicant and the Minister.
- (4) An inspector or authorised person who has entered and searched land or premises, or both, under this section or under a warrant granted under this section shall draw up and sign a report of the result of the entry and search and shall furnish that report to the Director General.
- (5) This section is in addition to, and not in derogation of, any other provision of this Act under which an inspector or authorised person is authorised to enter land or premises for the purpose of exercising any power or performing any duty or function.
- (6) Where, under the provisions of this Act or of a warrant granted under this Act, an inspector or authorised person is authorised to enter land, or premises on land, for any purpose —
  - (a) he may, with or without assistants or contractors, enter and remain on that land or in those premises for such period as is reasonable for carrying out that purpose; and

- (b) he shall have for himself and those assistants or contractors such rights of ingress, egress and regress into, over and across that land for that period with such vehicles, instruments, appliances and materials as are reasonable for carrying out that purpose.

*[Section 84 amended: No. 22 of 1980 s. 6; No. 84 of 2004 s. 80; No. 24 of 2007 s. 27<sup>2</sup>; No. 46 of 2010 s. 55(2).]*

**85. Power to search conveyances etc.**

- (1) An inspector or authorised person may at any time search and inspect any vehicle, vessel, aircraft or train in order to ascertain if —
- (a) any declared plant, declared animal or prohibited material is on or in that vehicle, vessel, aircraft or train;
- [(b) deleted]*
- (c) any chemical is being transported on or in that vehicle, vessel, aircraft or train contrary to section 83A.
- (2) An inspector or authorised person may take possession of any declared plant or declared animal or prohibited material found in the course of a search and inspection under subsection (1).
- (3) For the purpose of exercising his powers under this section an inspector or authorised person —
- (a) may stop any vehicle or vessel;
- (b) may, with or without assistants, enter into or upon any vehicle, vessel, aircraft or train and search and inspect every part of it and everything on or in it.
- (4) A person who, being in charge of a vehicle or vessel, fails to stop the vehicle or vessel when so required by a person who makes himself known as being an inspector or authorised person, commits an offence.

Penalty: a fine of \$20 000.



- (5) This section is in addition to, and not in derogation of, any other provision of this Act under which an inspector or authorised person is authorised to search for, take possession of, detain or destroy or cause the destruction of any plant, animal or prohibited material.

*[Section 85 amended: No. 22 of 1980 s. 7; No. 20 of 1989 s. 3; No. 24 of 2007 s. 27<sup>2</sup>; No. 46 of 2010 s. 56.]*

**86. Name and address may be required**

An inspector or authorised person acting in the exercise or performance of his powers, duties or functions under this Act may —

- (a) require any person to state his name and address;
- (b) require any occupier of land to state, to the best his knowledge, information and belief, the name and address of the owner of that land.

**87. Obstruction etc.**

Any person who —

- (a) without lawful excuse, wilfully obstructs, hinders or resists an inspector or authorised person in the exercise or performance of his powers, duties or functions under this Act; or
- (b) without lawful excuse, refuses or wilfully fails to comply with any lawful requirement of an inspector or authorised person under this Act; or
- (c) wilfully makes any false statement to or misleads, or attempts to mislead an inspector or authorised person in the exercise or performance of his powers, duties or functions under this Act; or

- (d) assaults or uses abusive language to an inspector or authorised person, or a person assisting an inspector or authorised person,

commits an offence.

Penalty: a fine of \$20 000.

*[Section 87 amended: No. 59 of 1986 s. 7; No. 20 of 1989 s. 3; No. 46 of 2010 s. 56.]*

**88. Personating officers**

Any person who falsely represents himself to be, or personates, an inspector or authorised person commits an offence.

Penalty: a fine of \$20 000.

*[Section 88 amended: No. 20 of 1989 s. 3; No. 46 of 2010 s. 56.]*

**Division 2 — Agents, mortgagees and trustees**

**89. Attorneys and agents to represent principal**

- (1) An attorney or agent of an owner who is absent from the State, shall be deemed to represent his principal for the purposes of this Act, so far as regards land which the attorney or agent is authorised to manage, or of which he is authorised to hold possession, or the rents and profits of which he is authorised to collect on behalf of the owner.
- (2) Service on such a representative of the owner of land of —
- (a) a notice required or authorised to be served on the owner;
  - (b) a summons or legal process for the recovery of money payable by the owner in respect of the land, pursuant to the provisions of this Act,

shall be regarded as effective service on the owner.

**90. Powers of trustees**

A trustee who is an owner of land in accordance with the definition *owner* in section 7 may apply any of the funds under his control as trustee, for the owner of the land, in defraying charges, costs and expenses necessarily or properly incurred by him pursuant to, or by virtue of, the provisions of this Act in that capacity.

**91. Mortgagees**

Where a mortgagee of land, pursuant to any obligation imposed on him by this Act, has paid an amount of money which otherwise would have been payable by the mortgagor, he may add the amount paid to the debt, the subject of the mortgage.

**Division 3 — Procedure**

**92. Manner in which notices may be served**

- (1) Service of a notice, the giving of which is authorised or required pursuant to the provisions of this Act may be effected —
  - (a) by delivering it personally to the person upon whom it is to be served; or
  - (b) by leaving it for him at his usual or last known place of abode or business; or
  - (c) by forwarding it by post in a prepaid letter, or transmitting it by telegram addressed to his last known place of abode or business, or to his last known postal address, or to the address (if any) shown in the rate record kept by a local government pursuant to the *Local Government Act 1995* as his address for the service of rate notices under that Act; or
  - (d) where an address for service pursuant to paragraph (b) or (c) cannot be discovered by the person giving the notice, by advertising the notice at least twice in a newspaper circulating in the district in which the land to which the notice relates is situated, an interval of at least

a week being allowed to elapse between the advertisements,

and shall be regarded as effective whether the notice comes or does not come to the hands or knowledge of the person for whom it is intended.

- (2) A notice may be served on a body corporate by delivering it, leaving it, posting it in a prepaid letter, or transmitting it by telegram, the notice being addressed in each case to the body corporate at its principal or any known place of business.
- (3) A notice may be served on all the members of a partnership or unincorporated body by delivering it, leaving it, posting it in a prepaid letter, or transmitting it by telegram, the notice being addressed in each case to the partnership or body at its principal or any known place of business.
- (4) When a person on whom it is desired to serve a notice relating to land, is not within the State and has no attorney authorised, by power of attorney filed and noted under the *Transfer of Land Act 1893* or enrolled under the *Registration of Deeds Act 1856*, to represent him for the purposes of this Act in respect to the land, then the notice shall be deemed to have been effectively served on the owner if—
  - (a) it has been affixed or displayed on or over a conspicuous part of the land, and left so affixed or displayed for at least 14 days; and
  - (b) a copy of the notice has been posted to the person appearing to be the owner on search made in a register or other records referred to in section 94(1)(b), addressed to him at his place of abode or business, as disclosed by the search.
- (5) Any notice required by this Act to be given to the occupier or owner, as the case may be, of any land, shall in cases where several persons are the occupiers or owners thereof be duly given if given to one of such occupiers or owners with the addition of the words “and another” or “and others” as the case requires.

- (6) Where an occupier of land, who is not the owner of the land, is served with a notice, he shall inform the owner of the fact as soon as practicable after being served.  
Penalty: a fine of \$20 000.
- (7) Non-service on the owner shall not affect the validity of service on the occupier, nor shall non-service on the occupier affect the validity of service on the owner.
- (8) A notice by this Act required to be given to the owner or occupier of any land, may, if the name of the owner or occupier is not known, be addressed to him by the description of the “owner” or “occupier” of the land, describing it, in respect of which the notice is given, without further name or description.
- (9) All notices authorised or required under this Act to be served on any owner or occupier shall, if service has been made on any owner or occupier, be binding on every subsequent owner or occupier to the same extent as if such notice had been served on each subsequent owner or occupier.
- (10) In a notice a description of the land affected by it shall be sufficient if the description allows of no reasonable doubt as to the land affected, notwithstanding that the description does not particularly define the land.
- (11) In the case of service by post or by telegram, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, in the ordinary course, the letter or telegram would be delivered.
- (12) The provisions of this section shall be in addition to, and not in derogation of, any other provision of this Act relating to the service of notices and those of section 31 of the *Interpretation Act 1918*<sup>4</sup>.

*[Section 92 amended: No. 59 of 1986 s. 7; No. 20 of 1989 s. 20; No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(2); No. 60 of 2006 s. 121(2); No. 46 of 2010 s. 56.]*

**93. Proof of documents and service**

- (1) For the purposes of this section *document* means a requisition, notice, order, demand or summons or other process under the *Criminal Procedure Act 2004* issued or made for any of the purposes of this Act and *serve* includes deliver, give and send.
- (2) In all proceedings in which a document has to be proved, the accused shall be deemed to have received notice to produce it, and until the contrary is shown, the document and its effective service may be sufficiently proved by or on behalf of the prosecutor, by the production of what purports to be a copy, bearing what purports to be a certificate, signed by a person authorised to issue the original, that the copy is a true copy of the original, and that the original was served on the date specified in the certificate.
- (3) The validity of any document or of the effective service of it shall not be affected by any error, misdescription or irregularity which does not mislead or which is not likely to mislead.

*[Section 93 amended: No. 59 of 2004 s. 141; No. 84 of 2004 s. 78, 80 and 82.]*

**94. Proof of ownership or occupancy**

- (1) In proceedings brought pursuant to the provisions of this Act, in addition to other methods of proof available —
  - (a) evidence that the person proceeded against is rated under the *Local Government Act 1995* as owner of land; or
  - (b) evidence by the certificate of —
    - (i) the Registrar of Titles, or an Assistant Registrar of Titles, that any person's name appears in the Register under the *Transfer of Land Act 1893*, as owner of land;
    - (ii) the Registrar of Deeds and Transfers, or his substitute, or an Assistant Registrar of Deeds and Transfers, that a person appears from a memorial

- of registration of a deed, conveyance or other instrument, to be the owner of land;
- (iii) the chief executive officer of the department principally assisting in the administration of the *Land Administration Act 1997* that a person is registered in that department as the owner or occupier of land;
  - (iiia) the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* that a person is registered in that department as the owner or occupier of land;
  - (iv) the CEO as defined in section 3 of the *Conservation and Land Management Act 1984*, that any person is registered as the holder of a permit, licence or lease under Part VIII of that Act,

shall until the contrary is proved, be evidence that such person is the owner or occupier, as the case may be, of the land.

- (2) All courts and all person having by law, or by consent of parties, authority to hear, receive and examine evidence, shall, for the purposes of this Act, take judicial notice of the signature attached to a certificate referred to in of subsection (1)(b).
- (3) The averment in a claim, prosecution notice or other document in proceedings instituted for the purposes of this Act, that a person is or was at any time, the owner or occupier of land, shall be deemed to be proved in the absence of proof to the contrary.

*[Section 94 amended: No. 112 of 1984 s. 25; No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 84 of 2004 s. 80; No. 28 of 2006 s. 10; No. 60 of 2006 s. 121(3).]*

**94A. Proof of plant or animal**

In any proceedings for an offence against this Act a certificate signed or purporting to be signed by or on behalf of the Director General stating that the plant or animal in relation to which the

proceedings are brought is a plant or animal of the kind specified in the certificate shall, until the contrary is proved, be sufficient evidence that the plant or animal is of the kind so specified.

*[Section 94A inserted: No. 55 of 1979 s. 8; amended: No. 31 of 1983 s. 15; No. 46 of 2010 s. 43.]*

**95. Judicial notice of signatures**

A person acting judicially must take judicial notice of the signature of the Director General and of the Minister.

*[Section 95 inserted: No. 46 of 2010 s. 44.]*

**96. Authentication of documents**

Subject to this Act, every document required or used for or in connection with the purposes of this Act may be authenticated by the signature of the Director General or the Minister.

*[Section 96 inserted: No. 46 of 2010 s. 44.]*

**97. Evidentiary provisions**

- (1) In any proceedings to recover the amount of any costs, charges, or expenses recoverable by the State under this Act, it shall be sufficient to produce the certificate of the Minister or the Director General, and such certificate shall be prima facie evidence that such costs, charges and expenses were actually and lawfully incurred by a person authorised by the Minister or the Director General in that behalf, and the onus of disproving the amount shall be upon the defendant.
- (2) In any proceedings under this Act a report drawn up and signed by an inspector or authorised person pursuant to section 84(4) shall be prima facie evidence of the matters stated in that report.

*[Section 97 amended: No. 46 of 2010 s. 45.]*



**98. Prosecutions**

A prosecution for an offence under this Act cannot be commenced except by or with the approval of the Director General.

*[Section 98 inserted: No. 46 of 2010 s. 46.]*

**Division 4 — Miscellaneous**

**99. Variation or cancellation of declarations**

Where the Minister has made a declaration pursuant to the power conferred by this Act or any other Act, the Minister may, by subsequent declaration, —

- (a) vary the provisions and operation of the earlier declaration; or
- (b) cancel the provisions and operation of the earlier declaration wholly or in part absolutely; or
- (c) cancel the provisions and operation of the earlier declaration wholly or in part and substitute other provisions and their operation for those so cancelled.

*[Section 99 amended: No. 46 of 2010 s. 47 and 55(1).]*

**100. Indemnity to persons acting in execution of powers conferred by Act**

A person shall not —

- (a) be regarded as a trespasser by reason of anything done by him in the course of the execution of any powers vested in him under or pursuant to this Act or an agreement made under this Act; or
- (b) be liable for any damage occasioned by him in the course of the exercise of those powers unless such damage is occasioned otherwise than in the reasonable exercise of those powers.

*[101. Deleted: No. 20 of 1989 s. 3.]*

**102. Offences to be dealt with by magistrate**

A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.

*[Section 102 inserted: No. 59 of 2004 s. 141.]*

## Part VIII — Regulations

### 103. Governor may make regulations

The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or are contemplated as being prescribed or which are necessary or expedient to be prescribed for carrying this Act into effect.

*[Section 103 inserted: No. 46 of 2010 s. 48.]*

### 104. Regulations — general

Without limiting the generality of section 103 the Governor may make regulations —

*[(a)-(d) deleted]*

- (e) with respect to the manner of applying for any permit under this Act or any variation or renewal of such a permit;
- (f) prescribing forms for use under this Act;
- (g) prescribing rates of interest payable under this Act on debts due to the State.

*[Section 104 amended: No. 14 of 1996 s. 4; No. 46 of 2010 s. 49.]*

### 105. Regulations — declared plants and declared animals

Without limiting the generality of section 103 the Governor may make regulations —

- (a) with respect to —
  - (i) measures, whether mechanical, biological, chemical or otherwise, to be taken and things to be done with respect to the control of declared plants and declared animals;
  - (ii) dissemination of information and the giving of directions relating to the measures, things and action referred to in subparagraph (i);

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- (iii) the time at which or the period within which, those measures or that action shall be taken, those directions shall be complied with and those things shall be done;
- (iv) enforcement of the taking of those measures or that action, compliance with those directions or the doing of those things;
- (b) with respect to the use of appliances and materials for controlling declared plants and declared animals and the manner of mixing materials;
- (c) prohibiting or regulating the use of any particular chemical or spray in or for the control of declared plants or declared animals, or for the destruction of other plants or animals, whether that chemical or spray is applied by aircraft or by any other means, at any time, or during particular periods or in relation to any area or boundary specified in the regulations;
- [(d)-(r) deleted]*
- (s) with respect to the prevention of the introduction into the State, or into any part of the State from some other part of the State, of any prohibited material and the control and prevention of the introduction and spread of declared plants generally, and without limiting the generality of the foregoing —
  - (i) providing for the shearing or clipping of wool or other animal coats known or likely to be carrying the seeds of declared plants;
  - (ii) providing for the inspection, detention, cleansing treatment and disposal by release, export from the State, sale, destruction or other means, of animals or things found or likely to carry or contain prohibited material or declared plants;
  - (iii) providing for the recovery from the owner, consignor, consignee, or person in possession or control of any animal, thing or prohibited

material, of the expenses incurred by officers of the department in connection with that animal, thing or prohibited material;

- (iv) prescribing fees for the issue of permits under regulations made pursuant to this paragraph and fees for carrying out inspections for the purpose of determining whether any such permits should issue, and providing for the recovery of such fees;
- (t) imposing conditions and restrictions on —
  - (i) the introduction into the State from elsewhere of animals that are declared animals of category A4 in respect of the whole of the State;
  - (ii) the introduction into a part of the State from another part of the State, or from elsewhere, of animals that are declared animals of category A4 in respect of the first-mentioned part of the State;
  - (iii) the keeping, sale or disposal in a part of the State of animals that are declared animals of category A6 in respect of that part of the State, authorising the Director General to impose, in any permit issued by the Director General under regulations made under this paragraph, any further conditions and restrictions as to such introduction, keeping, sale or disposal that the Director General sees fit to specify in the permit, prescribing fees for the issue of such permits and fees for carrying out inspections for the purpose of determining whether, or the conditions and restrictions subject to which, any such permit should issue, and providing for the recovery of such fees;

*[(u), (v) deleted]*

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- (w) preventing interference with experiments conducted by or on behalf of the department on or in relation to declared plants or declared animals and, without limiting the generality of the foregoing, —
  - (i) prohibiting or regulating entry to a location or reserve on which such experiments are being conducted;
  - (ii) prohibiting the trapping, catching or killing of declared animals on any location or reserve on which such experiments are being conducted on or in relation to declared animals of that class;
- (x) with respect to the circumstances and manner in which bonuses for the destruction of declared animals may be claimed and paid and to the prevention of fraudulent or other improper practices in respect of such bonuses.

*[Section 105 amended: No. 40 of 1978 s. 13; No. 55 of 1979 s. 9; No. 22 of 1980 s. 8; No. 31 of 1983 s. 16; No. 24 of 2007 s. 27<sup>2</sup>; No. 46 of 2010 s. 50.]*

*[106. Deleted: No. 24 of 2007 s. 27<sup>2</sup>.]*

**106A. Regulations — storage, use and transport of prescribed chemicals**

- (1) Without limiting the generality of section 103 the Governor may, for the protection of agriculture and related resources, make regulations with respect to the storage, use, and transport of prescribed agricultural chemicals.
- (2) Regulations may authorise the taking of samples of chemicals, the seizure and removal of chemicals and the giving of directions for the removal of chemicals.

*[Section 106A inserted: No. 55 of 1979 s. 10; amended: No. 22 of 1980 s. 9.]*

**107. General provisions as to regulations**

- (1) Regulations may be made under this Act —
- (a) so as to apply —
    - (i) generally or to any specified class or classes of case or subject-matter;
    - (ii) at all times or at any specified time or times;
    - (iii) throughout the State or in any specified part or parts of the State;
  - (b) so that different regulations apply to different areas, or different classes of persons, or different classes or categories of declared plants or declared animals, or in different circumstances, or so that regulations apply differently according to such factors as may be specified;
  - (c) so as to require a matter affected by them to be —
    - (i) in accordance with a specified standard or specified requirement; or
    - (ii) as approved by, or to the satisfaction of, a specified person or body, or a specified class of person or body;
  - (d) so as to confer on or delegate to a specified person or body, or a specified class of person or body, a discretionary authority;
  - (e) so as to provide that, in specified cases or a specified class of case or specified classes of cases, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified;
  - (f) so as to require any matter or thing to be verified by statutory declaration.
- (2) In subsection (1) *specified* means specified in the regulations.

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**108. Penalties under regulations**

Regulations made under this Act may impose for a breach of a regulation so made a maximum penalty not exceeding \$20 000, with or without a fine for each separate and further offence committed under the *Interpretation Act 1984* section 71 of not more than \$500.

*[Section 108 inserted: No. 46 of 2010 s. 52.]*

*[Part IX (s. 109-112) deleted: No. 24 of 2007 s. 27<sup>2</sup>.]*

*[Part X (s. 113-119) deleted: No. 46 of 2010 s. 53.]*



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**Part XI — Agriculture and Related Resources  
Protection Amendment Act 2010 — Savings and  
transitional provisions**

*[Heading inserted: No. 46 of 2010 s. 54.]*

**120. Terms used**

In this Part —

**commencement day** means the day on which the *Agriculture and Related Resources Protection Amendment Act 2010* section 7 comes into operation<sup>1</sup>;

**Protection Board** means the Agriculture Protection Board of Western Australia constituted under the *Agriculture Protection Board Act 1950*<sup>5</sup>.

*[Section 120 inserted: No. 46 of 2010 s. 54.]*

**121. Approvals and certificates**

An approval or certificate given by the Chief Officer under this Act as in force before the commencement day and of effect on that day has effect on and after that day as if it were an approval or certificate of the Director General.

*[Section 121 inserted: No. 46 of 2010 s. 54.]*

**122. Authorised persons**

An authorisation given under section 11 as in force before the commencement day and in effect immediately before that day has effect on and after that day as if it were an authorisation of the Director General.

*[Section 122 inserted: No. 46 of 2010 s. 54.]*

**123. Declarations**

A declaration made by the Protection Board under this Act as in force before the commencement day and in effect immediately

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before that day has effect on and after that day as if it were a declaration of the Minister.

*[Section 123 inserted: No. 46 of 2010 s. 54.]*

**124. Rates payable under section 61**

Despite the amendments made by the *Agriculture and Related Resources Protection Amendment Act 2010* sections 28 to 32 (the **amending sections**), sections 61 to 65, as in force before the amending sections came into operation<sup>1</sup>, continue to apply in relation to a rate payable for a financial year commencing on a day before the amending sections came into operation except that —

- (a) any reference in section 63(3a) or (4) to the Protection Board is to be taken to be a reference to the Minister; and
- (b) rates recovered under section 61 after the coming into operation of the *Agriculture and Related Resources Protection Amendment Act 2010* section 28 are to be credited to the Declared Pest Account.

*[Section 124 inserted: No. 46 of 2010 s. 54.]*

**125. Funds in, or payable to, former account**

- (1) In this section —

**closure day** means the day on which the *Agriculture and Related Resources Protection Amendment Act 2010* section 32 comes into operation<sup>1</sup>;

**former account** means the Declared Plants and Animals Control Fund referred to in section 65 as in force before the closure day.

- (2) On the closure day any moneys standing to the credit of the former account are to be credited to the Declared Pest Account and the former account is then to be closed.

- (3) Moneys referred to in subsection (2) may be applied —
  - (a) in the payment of any liabilities of the former account which arose before the closure day; and
  - (b) for the purposes set out in the *Biosecurity and Agriculture Management Act 2007* section 138.
- (4) The Declared Pest Account is to be credited with any money that became payable to the former account before the closure day and that is paid after that day.
- (5) If in an agreement, instrument or other document there is a reference to the former account, that reference is, unless the context otherwise requires, to be read and have effect on and after the closure day as if it were a reference to the Declared Pest Account.

*[Section 125 inserted: No. 46 of 2010 s. 54.]*

**126. Management programmes**

A management programme made and published under section 66 as in force before the commencement day and in effect immediately before that day has effect on and after that day as if it were made and published under that section by the Minister.

*[Section 126 inserted: No. 46 of 2010 s. 54.]*

**127. Notices**

A notice given to the Protection Board under section 74, 75 or 76 as in force before the commencement day has effect on and after that day as if it were a notice given under that section to the Director General.

*[Section 127 inserted: No. 46 of 2010 s. 54.]*

**128. Permissions and authorities**

- (1) Permission granted by the Protection Board under section 77 or 80 as in force before the commencement day has effect on

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and after that day as if it were permission granted under that section by the Director General.

- (2) A written authority given by the Protection Board under section 79(2) as in force before the commencement day has effect on and after that day as if it were given under that section by the Director General.

*[Section 128 inserted: No. 46 of 2010 s. 54.]*

**129. Transitional regulations**

- (1) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.
- (2) In subsection (1) —  
***transitional matter*** means a matter that needs to be dealt with for the purpose of effecting the transition from an Act (including this Act) as enacted immediately before the commencement day to the Act as amended by the *Agriculture and Related Resources Protection Amendment Act 2010*<sup>1</sup>.
- (3) Regulations made under subsection (1) may provide that specified provisions of this Act as in force after the commencement of the *Agriculture and Related Resources Protection Amendment Act 2010*, or of subsidiary legislation made under this Act, or of an Act amended by the *Agriculture and Related Resources Protection Amendment Act 2010* —
- (a) do not apply; or
  - (b) apply with specified modifications,
- to or in relation to any matter.
- (4) If regulations under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the

commencement day, the regulations have effect according to their terms.

- (5) In subsections (3) and (4) —  
***specified*** means specified or described in the regulations.
- (6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as to —
- (a) affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the day of publication of those regulations; or
  - (b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

*[Section 129 inserted: No. 46 of 2010 s. 54.]*

*[Schedule deleted: No. 6 of 2006 s. 8.]*



### Notes

<sup>1</sup> This is a compilation of the *Agriculture and Related Resources Protection Act 1976* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Agriculture and Related Resources Protection Act 1976</i>	42 of 1976	9 Jun 1976	Long title, s. 1-5, 7 and Pt. V Div. 6: 18 Jun 1976 (see s. 2 and <i>Gazette</i> 18 Jun 1976 p. 2048); Act other than Long title, s. 1-5, 7 and Pt. V Div. 6: 1 Jul 1976 (see s. 2 and <i>Gazette</i> 18 Jun 1976 p. 2048)
<i>Agriculture and Related Resources Protection Act Amendment Act 1978</i>	40 of 1978	29 Aug 1978	29 Aug 1978
<i>Agriculture and Related Resources Protection Act Amendment Act 1979</i>	55 of 1979	12 Nov 1979	s. 3, 4(b), 7, 10 and 11: 1 Jul 1976 (see s. 2(1)); Act other than s. 3, 4(b), 7, 10 and 11: 12 Nov 1979 (see s. 2(2))
<i>Agriculture and Related Resources Protection Act Amendment Act 1980</i>	22 of 1980	15 Oct 1980	s. 5: 1 Jul 1980 (see s. 2(2)); Act other than s. 5: 15 Oct 1980 (see s. 2(1))
<b>Reprint of the <i>Agriculture and Related Resources Protection Act 1976</i> approved 10 Feb 1981 (includes amendments listed above)</b>			
<i>Agriculture and Related Resources Protection Amendment Act 1981</i>	76 of 1981	9 Nov 1981	Act other than s. 3(d): 1 Jul 1976 (see s. 2(1)); s. 3(d): 9 Nov 1981 (see s. 2(3))
<i>Agriculture and Related Resources Protection Amendment Act 1983</i>	31 of 1983	1 Dec 1983	29 Dec 1983 (see s. 2)
<i>Acts Amendment (Conservation and Land Management) Act 1984 Pt. V</i>	112 of 1984	19 Dec 1984	22 Mar 1985 (see s. 2 and <i>Gazette</i> 15 Mar 1985 p. 931)

## Agriculture and Related Resources Protection Act 1976

Short title	Number and year	Assent	Commencement
<i>Agriculture and Related Resources Protection Amendment Act 1986</i> <sup>6</sup>	59 of 1986	26 Nov 1986	s. 1 and 2: 26 Nov 1986; Act other than s. 1 and 2: 5 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4860)
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i> s. 3	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(1)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Industrial Legislation Amendment Act 1995</i> s. 35	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Transfer of Land Amendment Act 1996</i> s. 153(1) and (2)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 5 and s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Agricultural Legislation Amendment and Repeal Act 1998</i> Pt. 2	9 of 1998	30 Apr 1998	4 Jul 1998 (see s. 2 and <i>Gazette</i> 3 Jul 1998 p. 3581)
<b>Reprint of the <i>Agriculture and Related Resources Protection Act 1976</i> as at 15 Oct 1999</b> (includes amendments listed above)			
<i>Taxation Administration (Consequential Provisions) Act 2002</i> s. 7 <sup>7</sup>	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 26	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

## **Agriculture and Related Resources Protection Act 1976**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> <sup>8</sup>	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 6</i> <sup>9</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Limitation Legislation Amendment and Repeal Act 2005 Pt. 10</i>	20 of 2005	15 Nov 2005	15 Nov 2005 (see s. 2)
<i>Agriculture and Related Resources Protection Amendment Act 2006</i>	6 of 2006	12 Apr 2006	12 Apr 2006 (see s. 2)
<b>Reprint 3: The Agriculture and Related Resources Protection Act 1976 as at 16 Jun 2006</b> (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 2 Div. 2</i> <sup>10</sup>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Land Information Authority Act 2006 s. 121</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and Sch. 1 cl. 6</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 27</i> <sup>2, 11</sup>	24 of 2007	12 Oct 2007	23 Nov 2011 (see s. 2(2) and <i>Gazette</i> 22 Nov 2011 p. 4843); 1 May 2013 (see s. 27 and proclamation published in <i>Gazette</i> 5 Feb 2013 p. 824); 5 Jul 2014 (see s. 27 and proclamation published in <i>Gazette</i> 4 Jul 2014 p. 2359)



<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Agriculture and Related Resources Protection Amendment Act 2010 Pt. 2</i>	46 of 2010	28 Oct 2010	18 Dec 2010 (see s. 2(b) and <i>Gazette</i> 17 Dec 2010 p. 6349)
<i>Road Traffic Legislation Amendment Act 2012 Pt. 4 Div. 1</i>	8 of 2012	21 May 2012	27 Apr 2015 (see s. 2(d) and <i>Gazette</i> 17 Apr 2015 p. 1371)

**Reprint 4: The Agriculture and Related Resources Protection Act 1976 as at 17 Oct 2014** (includes amendments listed above except those in the *Road Traffic Legislation Amendment Act 2012*)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 27</i> <sup>12</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Commercial Arbitration Act 2012 s. 45 it. 1</i> <sup>14</sup>	23 of 2012	29 Aug 2012	To be proclaimed (see s. 1B(b))

<sup>2</sup> On the date as at which this compilation was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 27* was in force. It reads as follows:

**27. Repeal**

- (1) The *Agriculture and Related Resources Protection Act 1976* is repealed on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

For proclamations repealing provisions of this Act see *Gazettes* 5 Feb 2013 p. 824 and 4 Jul 2014 p. 2359.

<sup>3</sup> Repealed by the *Mining Act 1978*.

- <sup>4</sup> Repealed by the *Interpretation Act 1984*.
- <sup>5</sup> Repealed by the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*.
- <sup>6</sup> The *Agricultural and Related Resources Protection Amendment Act 1986* s. 8 is a transitional provision that is of no further effect.
- <sup>7</sup> The *Taxation Administration (Consequential Provisions) Act 2002* s. 3, 4 and Pt. 4 are transitional provisions that are of no further effect.
- <sup>8</sup> The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 4 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- <sup>9</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- <sup>10</sup> The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 4 Div. 23 has transitional provisions some of which may be relevant to this Act.
- <sup>11</sup> The *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* Pt. 2 Div. 6 Subdiv. 2 (as amended by the *Agriculture and Related Resources Protection Amendment Act 2010* s. 60) reads as follows:

**Subdivision 2 — Transitional and savings provisions**

**30. Meaning of terms used in this Subdivision**

In this Subdivision —

**commencement day** means the day on which the repealed Act Part V Division 6 is repealed;

**repealed Act** means the *Agriculture and Related Resources Protection Act 1976*.

[Section 30 amended: No. 46 of 2010 s. 60.]

**31. Rates on pastoral leases**

Despite section 27, the repealed Act Part V Division 6, as in force immediately before the commencement day, continues to apply in relation to a rate payable under that Division for a financial year commencing before the commencement day.

<sup>12</sup> On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 27 had not come into operation. It reads as follows:

**27. Agriculture and Related Resources Protection Act 1976 amended**

Section 9(5) of the *Agriculture and Related Resources Protection Act 1976* is amended as follows:

- (a) by deleting “1994,” and inserting instead —  
“ 1994 or ”;
- (b) by deleting “or the *Superannuation and Family Benefits Act 1938*”.

The section that it seeks to amend has been deleted.

<sup>13</sup> Footnote no longer applicable.

<sup>14</sup> On the date as at which this compilation was prepared, the *Commercial Arbitration Act 2012* s. 45 Table it. 1 had not come into operation. It reads as follows:

**45. Acts amended**

- (1) This section amends the Acts listed in the Table.
- (2) Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
<b>1. Agriculture and Related Resources Protection Act 1976</b>		
s. 106(1)(g)	<i>Arbitration Act 1895</i>	<i>Commercial Arbitration Act 2012</i>

The section that it seeks to amend has been deleted.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
amending sections.....	124
animal .....	7(1)
area.....	36(5)
authorised person .....	7(1)
category.....	7(1)
class .....	7(1)
closure day .....	125(1)
commencement day .....	120
Commissioner .....	7(1)
control .....	7(1)
declaration.....	7(1)
declared animal .....	7(1)
Declared Pest Account.....	7(1)
declared plant.....	7(1)
department .....	7(1)
Director General .....	7(1)
document.....	93(1)
dwelling .....	58(1)
former account .....	125(1)
inspector.....	7(1)
occupier.....	7(1)
occupy.....	7(1)
operational work .....	57
own .....	7(1)
owner .....	7(1)
pastoral lease.....	7(1)
plant .....	7(1)
prohibited material.....	7(1)
Protection Board .....	120
serve.....	93(1)
specified.....	107(2), 129(5)
to declare.....	7(1)
train .....	7(1)
transitional matter .....	129(2)
vehicle.....	7(1)
watercourse .....	7(1)