

ARGENTINE ANT.

3° Elizabeth II., No. XXXIX.

No. 39 of 1954.

**AN ACT to provide for the Control, Prevention, and
Destruction of Argentine Ants.**

[Assented to 3rd December, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Argentine Ant Act, 1954*.

**Interpre-
tation.**

2. In this Act unless the context requires otherwise—

“Agriculture Protection Board” means The Agriculture Protection Board constituted under the Agriculture Protection Board Act, 1950;

“ants” means Argentine ants;

“authorised person” means a person authorised in writing by the Committee to enter premises for the purpose of, or incidental to, the control, prevention, and destruction of ants;

“Committee” means The Argentine Ant Control Committee constituted under this Act;

“contributor” means a party required to contribute to the Fund;

“council” has the same means as in the Municipal Corporations Act;

“district” has the same meaning as in the local government Acts;

“Fund” means The Argentine Ant Control Committee Fund established under this Act;

“litter” includes refuse, garbage, and rank vegetation;

“local authority” means a council, and a road board, the district of which is wholly or partly in the South-West Division;

“local government Act” means the Municipal Corporations Act and the Road Districts Act;

“Municipal Corporations Act” means the Municipal Corporations Act, 1906;

Cr. No. 32 of 1906, as approved for reprint 13/2/1950 in Vol. 4 of the Reprinted Acts, 1951, and as further amended.

“occupier” has the same meaning as in the local government Acts;

“owner” has the same meaning as in the local government Acts;

“rateable property” has the same meaning as in the local government Acts;

“road board” has the same meaning as “Board” in the Road Districts Act;

Cf. No. 38 of 1919, as reprinted in Vol. 4 of the Reprinted Acts, 1951, and as further amended.

“Road Districts Act” means the Road Districts Act, 1919;

“scheme” means scheme for the control, prevention, and destruction of ants throughout the State;

“scheme-period” means the period commencing on the first day of July, one thousand nine hundred and fifty-four and ending on the thirtieth day of June, one thousand nine hundred and fifty-nine;

Cf. No. 37 of 1933 as approved for reprint 23/3/1950, in Vol. 3 of the Reprinted Act, 1950, and as further amended.

“South-West Division” means that part of the State comprised in the South-West Division mentioned in section twenty-eight of the Land Act, 1933;

“Treasurer” means the Treasurer of the State; and

“treatment” means any manner of treatment having as its object the control, prevention, or destruction of ants, and includes the application by spraying, and laying of baits, of substances which destroy ants.

The Argentine Ant Control Committee.

3. (1) A Committee constituted in accordance with the provisions of this Act has, under the Minister, the functions prescribed by this Act.

(2) The name of the Committee is The Argentine Ant Control Committee.

(3) Five members, being four nominee members and one *ex officio* member constitute the Committee.

(4) The appointment of the four nominee members shall be made by the Governor in accordance with the provisions of this section.

(5) The Minister shall in writing invite each of the bodies known as

- (a) the City of Perth;
- (b) the Local Government Association of Western Australia;
- (c) The Country Municipal Councils' Association of Western Australia; and
- (d) the Road Board Association of Western Australia;

to furnish him within a stipulated time being not less than fourteen days from the giving of the invitation, with the name of a person who is nominated by the body for appointment, and who is willing to accept office, as a member of the Committee.

(6) If within the stipulated time the body submits the nomination to the Minister, he shall present the nomination to the Governor who shall appoint the person nominated as a member to represent the body on the Committee, but if within the stipulated time the Minister has not received the nomination, he shall inform the Governor who shall appoint such person as he thinks fit so to represent the body.

(7) The *ex officio* member is the person for the time being appointed to the office of Director of Agriculture.

(8) The chairman of the Committee is the person for the time being appointed to the office of Director of Agriculture.

(9) (a) Each body represented on the Committee may by written notice delivered to the Committee,

- (i) appoint a person to act as a deputy on the Committee when its nominee member is not available to act as a member of the Committee; or
- (ii) cancel an appointment so made of a person, and appoint instead another person to act as deputy.

(b) The Minister may by written notice delivered to the Committee,

- (i) appoint a person to act as deputy on the Committee for the *ex officio* member when he is not available to act as such; and
- (ii) cancel an appointment so made of a person, and appoint instead another to act as deputy for the *ex officio* member.

(c) A person while appointed as deputy of a nominee member or the *ex officio* member and while acting as such, has and may exercise the same powers as the member for whom he is deputy.

(10) Each member is entitled to hold office for the duration of the scheme-period, but may be removed from office by the Governor if, in the opinion of the Governor the member has become unsuitable to continue as a member because of mental or physical infirmity or illness, or because of neglect of duty as a member, or misbehaviour whether in his capacity as a member or otherwise.

(11) The office of member becomes vacant if

- (a) he dies;
- (b) he resigns by written resignation delivered to the Minister;
- (c) he is removed under subsection (10) of this section; or

- (d) having been appointed or elected to an office on, and nominated by, a body mentioned in subsection (5) of this section, he ceases to hold office on that body.

(12) When a vacancy occurs in the office of a nominee member, a successor shall be appointed to the vacancy in accordance with the provisions of subsections (4), (5) and (6) of this section.

(13) Three members of the Committee constitute a quorum of the Committee and may carry out the functions of the Committee as effectively as if all members were present.

(14) The decision of the Committee is that of the majority of the members, and is determined by the votes of the members, each member including the chairman having one vote, and where there is an equal division of votes on a motion, the motion is lost.

(15) No act or decision of the Committee is invalid or defective on the ground that when the act was done or the decision made, a vacancy existed in office of member of the Committee or on the ground of a defect in the nomination for, or appointment to, office of member of the Committee.

(16) The members of the Committee or their deputies while acting as such, are entitled to such remuneration, allowances, and leave of absence as are approved from time to time by the Governor.

(17) The Committee shall conduct its proceedings in such manner as the Committee decides, or if regulations are made relating to the conduct of the proceedings, in accordance with the regulations.

(18) The *ex officio* member shall convene the first meeting of the Committee.

(19) The Committee shall cause to be recorded and kept proper minutes of its proceedings.

General
functions of
the
Committee.

4. (1) The functions of the Committee during the scheme-period include, under the Minister,

- (a) the administration of this Act;
- (b) formulating and carrying out the scheme;
- (c) purchasing or hiring equipment and purchasing materials, necessary for carrying out the administration of this Act and the scheme;
- (d) employing or engaging the services of such persons as are necessary for carrying out the administration of this Act and the scheme;
- (e) entering into contracts and arrangements for the purpose of carrying out the scheme;
- (f) for the purposes of carrying out the administration of this Act and the scheme, delegating, from time to time, for such period or periods, and on such terms and conditions, as the Committee considers fit, any of its powers, except this power of delegation to, or entering into agreements and arrangements with, local authorities, which are hereby authorised to accept and carry out powers delegated under this Act by the Committee, and to enter into and carry out agreements or arrangements, made under this Act by the Committee with the local authorities;
- (g) authorising and directing expenditure from the Fund for the purposes of carrying out the administration of this Act and the scheme; and
- (h) the exercise of such other powers as are conferred, and the discharge of such other duties as are imposed on the Committee by this Act.

Committee
may sue, be
sued and
make
complaints.

(2) The Committee in the name of The Argentine Ant Control Committee may sue and be sued, enter into submissions to arbitration under the Arbitration Act, 1895, and may make and prosecute complaints of offences under the Justices Act, 1911.

5. The Committee, in such manner as the Auditor General approves, and is hereby authorised to approve, The Fund.

- (a) shall cause to be opened and kept at the Treasury an account to be called The Argentine Ant Control Committee Fund;
- (b) shall cause to be received into the account contributions and other money payable into the Fund under this Act; and
- (c) may operate upon the account.

6. (1) In this section—

“estimated expenditure” means the amount shown in a statement prepared and delivered by the Committee in accordance with the requirements of this section.

Committee
to prepare
and furnish
annual
estimates.

(2) The Committee—

- (a) by such day in the first year of the scheme-period, and in such manner and form, as the Minister directs, and is hereby empowered to direct, shall prepare a written statement showing an estimate of the expenditure, not exceeding one hundred and five thousand pounds, proposed by the Committee for carrying out the administration of this Act and the scheme during that year;
- (b) by the thirtieth day of June in each year, excepting the last year, of the scheme-period, and in such manner and form as the Minister directs, and is hereby empowered to direct, shall likewise prepare a statement showing an estimate of the expenditure, not exceeding one hundred and five thousand pounds, proposed by the Committee for carrying out the administration of this Act and the scheme during the next ensuing year of the scheme-period; and

- (c) shall cause a copy of each statement so prepared to be delivered by the thirtieth day of June in each year, excepting the last year, of the scheme-period—
- (i) to the Treasurer of the State;
 - (ii) to the Minister;
 - (iii) to each local authority; and
 - (iv) to the Agriculture Protection Board.

Proportions
in which
contributors
are required
to contribute
to annual
estimated
expenditure.

(3) In order that the amount of estimated expenditure proposed by the Committee for carrying out the administration of this Act and the scheme in any year of the scheme-period may be met, payment is hereby authorised to be made, and shall be made, to the Committee,

- (a) by the Treasurer of the State, out of the public moneys of the State, of a contribution of such sum, not exceeding thirty-five thousand pounds in respect of any one year of the scheme-period, as bears to the estimated amount of expenditure for that year, the ratio which thirty-five thousand bears to one hundred and five thousand;
- (b) by the Agriculture Protection Board, out of the Agriculture Protection Board Fund mentioned in the Agriculture Protection Board Act, 1950, of a contribution of such sum, not exceeding four thousand pounds in respect of any one year of the scheme-period, as bears to the estimated amount of expenditure for that year, the ratio which four thousand bears to one hundred and five thousand; and
- (c) by the local authorities out of money mentioned in section seven of this Act, of an aggregate contribution of such sum, not exceeding sixty-six thousand pounds in respect of any one year of the scheme-period, as bears to the estimated amount of expenditure for that year, the ratio which sixty-six thousand bears to one hundred and five thousand.

(4) By notice in writing served on the respective contributors,

- (a) the Committee may direct that the amount of their respective contributions payable under subsection (2) of this section, be paid
 - (i) in one sum on or before a day appointed by the Committee and specified in the notice; or
 - (ii) in such instalments as are determined, and on or before such days as are appointed, by the Committee, and as are specified in the notice; or
- (b) if of opinion that, in view of the progress made in carrying out the scheme during part of a year of the scheme-period, expenditure of a percentage of the estimated amount of expenditure in respect of that year is not practicable or desirable, the Committee may direct that the amount representing that percentage
 - (i) if not already contributed, be excluded from the contributions payable in respect of that year; or
 - (ii) if already contributed, be expended in carrying out the scheme during the next or any ensuing year of the scheme-period, or be taken into account in reduction of contributions payable in respect of the next or any ensuing year of the scheme-period.

(5) Where notice of a direction mentioned in subsection (4) of this section is served upon a contributor, the direction has effect, and is binding upon the contributor, according to its tenor.

(6) Where a contributor defaults in paying to the Committee by the appointed day a contribution payable under this section, the Committee may, by action in a court of competent jurisdiction, recover the contribution from the contributor as a debt due.

Source of
contributions
by local
authorities.

7. (1) In this section—

“infested district” means a district declared to be such under subsection (2) of this section;

“value” whether capital unimproved value or annual value, means the value as in force on the thirtieth day of June, one thousand nine hundred and fifty-two.

(2) From time to time, by notice published in the *Gazette*;

(a) the Minister may declare districts, which are wholly or partly in the South-West Division, and in which, in his opinion, there are Argentine ants, to be infested districts; and

(b) the Minister may vary or cancel a previous declaration made under this subsection.

(3) The Committee shall assess the sum which each local authority shall pay as its share of the aggregate contribution mentioned in paragraph (c) of subsection (3) of section six of this Act at a rate not exceeding

(a) in respect of rateable property situated within the local authority's district being an infested district, except property which is rateable under the Vermin Act, 1919,

(i) one-half penny in the pound on the capital unimproved value of the property; or

(ii) five half-pence in the pound on the annual value of the property; or

(b) in respect of rateable property situated in the local authority's district not being an infested district, except property which is rateable under the Vermin Act, 1919,

(i) one-sixth of a penny in the pound on the capital unimproved value of the property; or

(ii) five-sixths of a penny in the pound on the annual value of the property.

(4) The Committee shall cause notice of the assessment to be served on the local authority and may include the notice of assessment, the copy statement mentioned in paragraph (c) of subsection (2) of section six of this Act and notice of a direction issued under subsection (4) of section six of this Act, or any of them, in one document.

(5) The Committee may serve notice on the Town Clerk or Secretary, as the case may be, of a local authority requiring him to supply to the Committee within fourteen days of the service of the notice, or within such longer period as the Committee specifies in the notice, a copy of the record of values of rateable property in the district of the local authority as adopted by the local authority and in force at the thirtieth day of June, one thousand nine hundred and fifty-two.

(6) If the Town Clerk or Secretary does not comply with the requirement he commits an offence.

Penalty: Fifty pounds and in addition a daily penalty of one pound for each day the offence continues.

(7) Each local authority is hereby authorised to pay the sum assessed under subsection (3) of this section as its share of the aggregate contribution, wholly out of its ordinary revenue, or wholly out of money raised by the imposition and collection of rates mentioned in subsection (8) of this section, or partly out of both.

(8) In order to raise the whole or part of its share of contribution, each local authority may impose under its local government Act in respect of rateable property in its district, not being property which is rateable under the Vermin Act, 1919, and cause to be collected, in addition to other rates which it is authorised to impose and collect, rates not exceeding those prescribed by subsection (3) of this section.

Accounts.

8. (1) The Committee shall cause to be kept true and regular accounts—

- (a) of money received by and money owing to the Committee;
- (b) of money paid and money owing by the Committee; and
- (c) of the purposes for which the money is owing or has been paid;

and shall cause the accounts to be balanced at the thirtieth day of June in each year of the scheme-period.

Audit.

(2) The Auditor General—

- (a) has in respect of the accounts of the Committee, the powers conferred upon him by the Audit Act, 1904;
- (b) shall arrange for the audit of the accounts;
- (c) shall, as soon as practicable after the completion of the audit in each year, prepare and deliver to the Committee a report on the audit of the accounts.

Annual report

9. As soon as practicable after the end of each year of the scheme-period, the Committee shall prepare, and submit to both Houses of Parliament, a report of its proceedings and operations during the year, together with a copy of the report of the Auditor General.

Execution of documents by the Committee.

10. (1) The Chairman of the Committee may execute documents on behalf and by authority of the Committee.

(2) Production of a document which purports to have been signed on behalf of the Committee by the Chairman is, in absence of proof to the contrary, proof that the document was executed on behalf and by authority of the Committee, without the necessity of proof of his signature or occupancy of office, or the authority of the Committee.

11. (1) A person who desires to serve a document on the Committee may do so, by posting it addressed to "The Argentine Ant Control Committee, care of the Department of Agriculture, Perth."

Service of documents on Committee.

(2) Proof of the posting of the document is, in absence of proof to the contrary, proof of service of the document at the time when in the ordinary course of post it would be delivered.

(3) The Committee may serve documents in accordance with the provisions of section three hundred and fifty-two of the Road Districts Act, which apply as if repeated *mutatis mutandis* in this section.

Service of documents by Committee.

12. (1) Where it is the intention of the Committee to carry out the inspection of premises or treatment in an area in which several premises are situated, the Committee may instead of serving notice individually on the owners or occupiers, of its intention to enter the premises for the purpose of carrying out the inspection or treatment, publish in the *Gazette* and a newspaper circulating in the area, a notice of the intention directed to all owners and occupiers of premises in the area, without stating their respective names and addresses or particulars of the premises.

Committee may give certain notices by advertisement. Cf. Gazette 31 Oct., 1952, p. 2634.

(2) A notice so published is, if published in the *Gazette* and in the newspaper on the same day, effectively served on all of those owners and occupiers on that day, or, if published on different days, on the later of those days.

13. (1) The Committee may from time to time, by an authorised person with or without assistants, plant and materials,

Power of person authorised by the Committee to enter and treat premises.

- (a) lawfully enter premises;
- (b) inspect the premises and anything in or upon them for the purpose of detecting ants;
- (c) rid the premises, or by written notice served upon him, require the owner or occupier to rid the premises of litter;

Cf. Gazette
31st Oct.,
1952, p. 2635.

- (d) where any movable thing is so placed in or upon the premises that it harbours or is likely to harbour ants or to hinder the treatment of the premises, move and rid it of ants, if any, and so place it in or upon the premises that it ceases to be likely to harbour ants or hinder the treatment, or by written notice served upon him, require the owner or occupier so to move, rid, and place it; and
- (e) carry out treatment of the premises in such manner whether by spraying, or laying baits, or otherwise, as is designed to control, prevent, or destroy the ants.

(2) Where a notice mentioned in paragraph (c) or (d) of subsection (1) of this section is served upon the owner or occupier of premises, but he does not comply with the requirement within fourteen days of service of the notice upon him, or within such longer period as the Committee specifies in the notice, he commits an offence, and without prejudicing his liability to penalty, the Committee may carry out the requirement, and recover the expense of doing so, from him in a court of competent jurisdiction.

(3) If required to do so by the owner or occupier of the premises, the authorised person shall produce for inspection his authorisation from the Committee.

(4) In exercising any of the powers conferred by this Act a person whose services are employed or engaged by the Committee shall cause as little inconvenience and damage as is practicable and shall give as much notice as is practicable of his intention to enter premises to the occupant of them, if they are occupied, or to the owner of them, if they are not occupied.

Persons
acting in
good faith
are not
liable
personally.

14. A person who, whether as Minister, a member of the Committee, or a person whose services are employed or engaged by the Committee, is not per-

sonally liable for anything which he does or omits in good faith in pursuance or purported pursuance of the provisions of this Act.

15. A person who obstructs the Minister, the Committee or a person whose services are employed or engaged by the Committee, in the exercise of any power conferred or the carrying out of any duty imposed by this Act, commits an offence.

Obstruction
is an offence.

16. A person who omits to do what he is required under this Act to do, or does what he is prohibited under this Act from doing, commits an offence against this Act.

Offences
generally.

17. A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned, is liable,

Penalties.
"This Act"
includes
regulations.
Cf. No. 30
of 1918, s. 4.

- (a) where the offence is not a continuing offence, to a maximum penalty of fifty pounds; and
- (b) where the offence is a continuing offence, to such maximum penalty as does not exceed fifty pounds and an additional amount of five shillings for each day during which the offence continues.

18. (1) In addition to other methods of proof available, production—

Proof of
ownership or
occupancy.

- (a) of the rate book of a municipal council or a road board, or of a copy or extract purporting to be certified by the signature of the mayor or clerk of the council, or by the chairman or clerk of the road board as a copy or extract of the rate book, showing that a person is rated as the owner or occupier of premises; or

(b) of a document purporting to be—

- (i) a certificate signed by the Registrar of Deeds or his substitute or an assistant Registrar of Deeds, that a person appears from a memorial of registration of a deed, conveyance, or other instrument to be the owner of premises;
- (ii) a certificate signed by the Registrar of Titles, or an Assistant or Deputy Registrar, that a person's name appears in the Register Book kept under the Transfer of Land Act, 1893, as that of the owner of premises; or
- (iii) a certificate signed by the Under Secretary for Lands, or the Under Secretary for Mines, that a person is registered in the Department of Lands and Surveys, or the Department of Mines, as the case may be, as the lessee or occupier of premises;

is until the contrary is proved, evidence that the person is the owner, lessee, or occupier, as the case may be, of the premises.

(2) Courts and persons having authority to hear, receive and examine evidence shall, for the purposes of this Act,

- (a) take judicial notice of a certificate and signature mentioned in subsection (1) of this section; and
- (b) presume as proved, in the absence of proof to the contrary, an averment in a claim, complaint or other document, that a person is or was at a stated time, owner or occupier of premises.

19. In a prosecution or other legal proceedings brought by or under the direction of the Committee, proof, unless evidence to the contrary is given, is not required

Presumption
of
regularity.

- (a) of the persons constituting, or holding office on, the Committee, or the regularity of their appointments;
- (b) of the presence of a quorum of the Committee or the regularity of the Committee's proceedings; or
- (c) of the authority of the Committee to bring the prosecution or proceedings.

20. (1) The Governor may make regulations which appear to him to be necessary or convenient for effectually carrying out the objects and purposes of this Act and may prescribe as the maximum penalty for a breach of the regulations, which is not a continuing breach, a penalty not exceeding fifty pounds, and where the breach is a continuing breach, such maximum penalty as does not exceed fifty pounds and an additional amount of five shillings for each day during which the breach continues.

Regulations.

(2) Without affecting the generality of the power conferred by subsection (1) of this section, the Governor by the regulations—

- (a) may require the owner or occupier of premises to make preparations specified by the regulations or in writing by an authorised person, for facilitating or ensuring the effective carrying out of treatment under this Act of the premises;
- (b) may, where treatment of premises has been carried out under this Act, prohibit within such period of the treatment as is specified in the regulations, the owner or occupier of the premises from adversely affecting the treatment in any manner specified by the

regulations or in writing by an authorised person, including watering, top-dressing, burning-off, or digging-in any part of the premises which has received treatment;

- (c) may authorise the Committee, where the owner or occupier of premises has not complied with the requirements of, or requisitioned under, the regulations to cause the requirements to be carried out at his expense and, without prejudicing his liability, if any, to penalty, to recover the expense from him in a court of competent jurisdiction;
- (d) may prohibit, or impose restrictions on, the doing or omission of anything which will result, or be likely to result, in ants being introduced into an area which is free of ants or is about to be, is being, or has been subjected to treatment.

Cf. Gazette
of 21st Mar.,
1950, pp. 718-
719.

Duration of
this Act.
Cf. S.O. No.
175 of the
Legislative
Council;
S.O. No. 289
of the
Legislative
Assembly.

21. This Act continues in operation until the thirtieth day of June, one thousand nine hundred and fifty-nine, and no longer.