



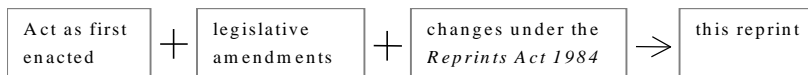
Western Australia

Co-operative Schemes (Administrative Actions) Act 2001

Reprint 1: The Act as at 17 July 2009

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Co-operative Schemes (Administrative Actions) Act 2001

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 17 July 2009

Co-operative Schemes (Administrative Actions) Act 2001

An Act relating to administrative actions by Commonwealth authorities or officers of the Commonwealth under the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* and other State co-operative scheme laws, and for other purposes.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Co-operative Schemes (Administrative Actions) Act 2001*¹.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation¹.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. Terms used

In this Act —

administrative action means an act or omission of an administrative or legislative nature, and includes any act or omission of an administrative nature that is done or omitted in the course of or ancillary to or preliminary to or subsequent to judicial proceedings (civil or criminal);

commencement time means (except as provided by section 4(5)) —

- (a) in relation to the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* — the time when section 4(1) comes into operation¹;
- (aa) in relation to the *Classification (Publications, Films and Computer Games) Enforcement Act 1996* — the time when section 43 of the *Censorship Amendment Act 2003* comes into operation²; or
- (b) in relation to any other relevant State Act — the time when it becomes a relevant State Act for the purposes of this Act by a resolution passed or Order in Council made under section 4(2)(a) or (b);

Commonwealth authority means an authority or body (whether incorporated or not) that is established or continued in existence

by or under an Act of the Commonwealth, but does not include the Federal Court of Australia, the Family Court of Australia or the Federal Magistrates Court;

confer includes impose;

function includes a duty;

invalid administrative action means an administrative action of a Commonwealth authority or an officer of the Commonwealth taken, or purportedly taken —

- (a) pursuant to a function or power conferred, or purportedly conferred, by or under a relevant State Act (the *relevant function or power*); and
- (b) in circumstances where the relevant function or power could not have been conferred on the authority or officer by a law of the Commonwealth the operation of which in the relevant respect was based on the legislative powers of the Parliament of the Commonwealth (including, for example, circumstances where the authority or officer was, or purportedly was, under an express or implied duty to perform the function or exercise the power),

that was invalid because of the circumstances referred to in paragraphs (a) and (b), whether or not it was also invalid on any other ground;

liability includes a duty or obligation;

officer of the Commonwealth has the same meaning as in section 75(v) of the Constitution of the Commonwealth;

relevant function or power means a function or power referred to in paragraph (a) of the definition of *invalid administrative action*;

relevant State Act is defined in section 4;

right includes an interest or status.

[Section 3 amended by No. 30 of 2003 s. 44(2); No. 74 of 2004 s. 68(2); No. 10 of 2006 Sch. 1 cl. 1(2).]

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4. Co-operative schemes to which this Act applies — relevant State Acts

(1) For the purposes of this Act —

relevant State Act means —

- (a) the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*;
- (aa) the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*; and
- [(b) *deleted*]
- (c) any other Act specified in a resolution or Order in Council under subsection (2),

and includes any law applying as a law of the State by force of any such Act.

(2) A specified Act enacted prior to the coming into operation of this Act may be declared a relevant State Act for the purposes of this Act —

- (a) by resolution of both Houses of Parliament passed in the same session; or
- (b) subject to subsection (3), by Order in Council if the declaration is to be made while Parliament is prorogued.

(3) Unless sooner affirmed by resolution of both Houses of Parliament passed in the same session, a declaration made by an Order in Council under subsection (2)(b) ceases to have effect on the expiration of 6 months of the day it was published in the *Gazette*. A cessation under this subsection has no effect on the validity or otherwise of things that were, or were not, done while the declaration was in force.

(4) A resolution or Order in Council under subsection (2) comes into operation —

- (a) at the beginning of the day on which it is published in the *Gazette*; or

- (b) at a later time, being a specified time of a day specified in the resolution or Order in Council.
- (5) A resolution or Order in Council may declare that the commencement time in relation to a relevant State Act is the specified time of a day specified in the resolution or Order in Council. This Act has effect in respect of the commencement time so declared whether or not it has already had effect with respect of an earlier commencement time.

[Section 4 amended by No. 30 of 2003 s. 44(3); No. 74 of 2004 s. 68(3); No. 10 of 2006 Sch. 1 cl. 1(3).]

5. Administrative functions and powers conferred on Commonwealth authorities and officers

- (1) A relevant State Act does not purport to confer any duty on a Commonwealth authority or an officer of the Commonwealth to perform a function, or to exercise a power, in relation to a matter arising under the relevant State Act if the conferral of the duty would be beyond the legislative power of the Parliament of the State.
- (2) This section does not limit the operation of section 7 of the *Interpretation Act 1984*.

Part 2 — Validation of invalid administrative actions

6. Invalid administrative actions to which Part applies

This Part applies to invalid administrative actions that have been taken, or have purportedly been taken, under a relevant State Act at or before the commencement time in relation to that Act.

7. Operation of Part

- (1) Subject to subsection (2), this Part extends to rights or liabilities arising between parties to proceedings initiated at or before the commencement time in relation to a relevant State Act where an allegedly invalid administrative action is or was the subject of or relevant to the proceedings.
- (2) This Part does not affect rights or liabilities arising between parties to proceedings heard and finally determined at or before the commencement time in relation to a relevant State Act to the extent to which those rights or liabilities arise from, or are affected by, an invalid administrative action.
- (3) This Part extends to administrative actions as affected by the operation of section 28B of the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*.

8. Legal effect of invalid administrative actions

Every invalid administrative action has, and is deemed always to have had, the same force and effect for all purposes as it would have had if —

- (a) it had been taken, or purportedly taken, by a State authority or officer of the State; and
- (b) the relevant function or power had been duly conferred on that authority or officer.

9. Rights and liabilities declared in certain cases

- (1) Without affecting the generality of section 8, the rights and liabilities of all persons are, by force of this Act, declared to be, and always to have been, for all purposes the same as if —
- (a) every invalid administrative action had been taken, or purportedly taken, by a State authority or officer of the State; and
 - (b) the relevant function or power had been duly conferred on that authority or officer.

- (2) A right or liability conferred or affected by subsection (1) —
- (a) is exercisable or enforceable; and
 - (b) is to be regarded as always having been exercisable or enforceable,

as if it were a right or liability conferred or affected by (or arising from) an administrative action of a State authority or officer of the State on which or whom the relevant function or power had been duly conferred.

- (3) Any act or thing done or omitted to be done at or before the commencement time in relation to a relevant State Act under or in relation to a right or liability conferred or affected by subsection (1) —
- (a) has the same effect, and gives rise to the same consequences, for the purposes of any written or other law; and
 - (b) is to be regarded as always having had the same effect, and given rise to the same consequences, for the purposes of any written or other law,

as if it were done, or omitted to be done, to give effect to, or under the authority of, or in reliance on, an administrative action of a State authority or officer of the State on which or whom the relevant function or power had been duly conferred.

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10. This Part to apply to administrative actions as purportedly in force from time to time

- (1) The purpose of this section is to ensure that this Part operates to give to an invalid administrative action that has subsequently been affected by another action or process no greater effect than it would have had if the administrative action, or any other relevant administrative action, had not been invalid on constitutional grounds (arising from the circumstances referred to in paragraphs (a) and (b) of the definition of *invalid administrative action* in section 3).
- (2) If administrative action taken by a Commonwealth authority or an officer of the Commonwealth was affected (whether by way of revocation, modification or otherwise) at or before the commencement time in relation to a relevant State Act by any later administrative action or by any judicial process or by any administrative review process, this Part applies to the administrative action as so affected from time to time.
- (3) In this section, a reference to administrative action taken includes a reference to administrative action purportedly taken, and a reference to administrative action affected in any way includes a reference to administrative action purportedly affected in that way.

Part 3 — Miscellaneous

11. Act binds Crown

This Act binds the Crown in right of Western Australia and, in so far as the legislative power of the Parliament of Western Australia permits, in all its other capacities.

12. Corresponding authorities or officers

It is immaterial, for the purposes of this Act, that a Commonwealth authority or an officer of the Commonwealth does not have a counterpart in the State, or that the functions and powers of a counterpart State authority or a counterpart officer of the State do not correspond exactly or substantially with those of the Commonwealth authority or the officer of the Commonwealth.

13. Act not to give rise to liability against the State

- (1) The State is not liable to any action, liability, claim or demand arising from the enactment, commencement or operation of this Act or the making, publication or operation of a resolution passed or Order in Council made under section 4(2)(a) or (b).
- (2) Without limiting subsection (1), no proceedings lie against the State in respect of an administrative action affected by this Act, except to the extent that the proceedings would lie had this Act not been enacted or a resolution passed or Order in Council made under section 4(2)(a) or (b) not been so passed or made.
- (3) In this section —
proceedings includes proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief;
the State includes any State authority or officer of the State, and also includes —
 - (a) the Crown in right of the State; and

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- (b) the Government of the State; and
- (c) a Minister of the Crown in right of the State; and
- (d) a statutory corporation, or other body, representing the Crown in right of the State.

14. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or the passing of a resolution or the making of an Order in Council under section 4(2)(a) or (b).



Notes

- ¹ This reprint is a compilation as at 17 July 2009 of the *Co-operative Schemes (Administrative Actions) Act 2001* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Co-operative Schemes (Administrative Actions) Act 2001</i>	31 of 2001	21 Dec 2001	s. 1 and 2: 21 Dec 2001; Act other than s. 1 and 2: 30 Jan 2002 (see s. 2 and <i>Gazette</i> 29 Jan 2002 p. 475)
<i>Censorship Amendment Act 2003 s. 44</i>	30 of 2003	26 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Australian Crime Commission (Western Australia) Act 2004 s. 68</i>	74 of 2004	8 Dec 2004	1 Feb 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Censorship Amendment Act 2006 Sch. 1 cl. 1</i>	10 of 2006	8 May 2006	10 Jun 2006 (see s. 2 and <i>Gazette</i> 9 Jun 2006 p. 2029)

Reprint 1: The *Co-operative Schemes (Administrative Actions) Act 2001* as at 17 Jul 2009 (includes amendments listed above)

- ² *Censorship Amendment Act 2003 s. 43* commenced 1 July 2003.

Defined Terms

Defined Terms

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

Defined Term	Provision(s)
administrative action	3
commencement time	3
Commonwealth authority	3
confer	3
function	3
invalid administrative action	3
liability	3
officer of the Commonwealth	3
proceedings	13(3)
relevant function or power	3
relevant State Act	3, 4(1)
right	3
the State	13(3)