



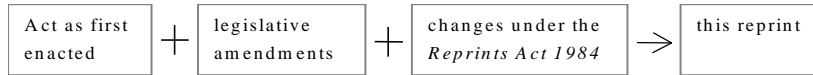
Western Australia

# **Plant Pests and Diseases (Eradication Funds) Act 1974**

**Reprint 3: The Act as at 12 September 2008**

## 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  - removed (because it was repealed or deleted from the law); or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 3<sup>rd</sup> 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

## **Plant Pests and Diseases (Eradication Funds) Act 1974**

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**Defined Terms**



Western Australia

Reprinted under the  
*Reprints Act 1984* as  
at 12 September 2008

## **Plant Pests and Diseases (Eradication Funds) Act 1974**

**An Act to impose contributions on growers for the purposes of the establishment of a Fund for eradication of, and the prevention of the spread of, skeleton weed and for the payment of compensation to owners of grain, seed, crop or bags destroyed in the course of steps taken to eradicate, or prevent the spread of, skeleton weed, the establishment of a Fund for the eradication of certain insect pests and the establishment of a Fund for the eradication of, and the prevention of the spread of, certain plant diseases and for the payment of compensation to owners of grain, seed, crop or bags destroyed in the course of steps taken to eradicate, or prevent the spread of, those plant diseases.**

*[Long title amended by No. 56 of 1980 s. 2; No. 53 of 1996 s. 4.]*

### **1. Short title**

This Act may be cited as the *Plant Pests and Diseases (Eradication Funds) Act 1974*<sup>1</sup>.

*[Section 1 amended by No. 56 of 1980 s. 3; No. 27 of 1982 s. 1; No. 53 of 1996 s. 5.]*

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

**3. Saving**

Nothing in this Act or the regulations, limits or affects the operation of any other Act relating to weeds.

**4. Terms used in this Act**

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

**Company** means Co-operative Bulk Handling Limited, a company incorporated under the provisions of the *Companies Act 1893*<sup>2</sup>, and deemed to be registered under the *Companies (Co-operative) Act 1943*, and having its office at 22 Delhi Place, West Perth;

**contribution** means the sum payable by a grower to the Fund or the Plant Diseases Eradication Fund, as the case requires, under section 9;

**crop** means cultivated plants that when harvested contain grain or seed;

**crop year** in relation to grain or seed that is delivered to a receiver of grain or seed or to the Company means the period in which that grain or seed is grown and harvested;

**declared crop year** means a crop year declared under section 9(2b) to be a declared crop year;

**Department** means the Government Department of the State known as the Department of Agriculture<sup>3</sup>;

**Director** means the person for the time being holding the office of Director of Agriculture<sup>4</sup> in the Department;

**Fund** means the Skeleton Weed Eradication Fund established under section 5;

**grain** means the seeds of the cereal grasses, wheat, barley or oats;

**grower** includes the legal personal representative of a deceased person, a trustee, the liquidator of a company, a person entitled to a share of a crop, under a share farming agreement, and a corporation, organization or body delivering grain to a receiver of grain or seed;

**inspector** means a person who is —

- (a) an inspector or authorised person within the meanings given to those terms by the *Agriculture and Related Resources Protection Act 1976*; or
- (b) an inspector within the meaning given to that term by the *Plant Diseases Act 1914*,

as the case requires;

**lupins** means all cultivars of —

- (a) *Lupinus angustifolius* (narrow-leaved lupins);
- (b) *Lupinus albus* (albus lupins); or
- (c) *Lupinus luteus* (yellow lupins);

**owner** means a person, other than a mortgagee not in possession, having or claiming jointly or in severalty any right, title or interest to or in any grain, seed, crop or bag and includes the authorised agent of an owner or owners;

**plant disease** means a disease, including any plant, animal, fungus, bacterium, virus or nematode, capable of affecting grain or seed production, designated under subsection (2);

**Plant Diseases Eradication Fund** means the Plant Diseases Eradication Fund established under section 8D;

**Protection Board** means the Agriculture Protection Board constituted under the *Agriculture Protection Board Act 1950*;

**receiver of grain or seed** means a person, a body corporate or other body that carries on the business of receiving or dealing in grain or seed or grain and seed in bulk but does not include the Company;

**resistant grain insects** means insects that —

- (a) belong to a class of animals which, by reason of their detrimental effect on grain, are declared under the *Agriculture and Related Resources Protection Act 1976* to be declared animals for the purposes of that Act, being a class of animals assigned under that Act to category A5 in respect of the whole or any part of the State; and
- (b) the Protection Board believes, on the basis of scientific evidence available to it, have a resistance to insecticides that are in general use to such an extent as to render those insecticides inadequate for the eradication of those insects;

**Resistant Grain Insects Eradication Fund** means the Resistant Grain Insects Eradication Fund established under section 8A;

**seed** means linseed, rapeseed, the seed of lupins and such other seed as is prescribed;

**skeleton weed** means the plant *Chondrilla juncea L.* or any part of that plant.

- (2) The Minister may, for the purposes of the definition of “plant disease” in subsection (1), by notice published in the *Gazette* —
  - (a) designate any disease, including any plant, animal, fungus, bacterium, virus or nematode, capable of affecting grain or seed production; and
  - (b) amend or revoke a designation made under this subsection.

*[Section 4 amended by No. 56 of 1980 s. 4; No. 27 of 1982 s. 2; No. 67 of 1985 s. 3; No. 53 of 1996 s. 6.]*

## **5. Fund established**

- (1) An agency special purpose account called the Skeleton Weed Eradication Fund is established under section 16 of the *Financial Management Act 2006*.



- (2) The Fund shall consist of contributions credited to the Fund under this Act and amounts of interest credited to the Fund pursuant to section 7(2).

*[Section 5 amended by No. 49 of 1996 s. 64; No. 28 of 2006 s. 24; No. 77 of 2006 s. 17.]*

**6. Payments out of Fund**

Subject to the Minister, all payments charged to the Fund, other than those referred to in section 7(1)(d), shall be approved of by the Protection Board.

*[Section 6 amended by No. 56 of 1980 s. 4; No. 49 of 1996 s. 64.]*

**7. Application of Fund**

- (1) The Fund shall be applied to the payment of —
- (a) expenses directly related to the eradication of, or the prevention of the spread of, skeleton weed;
  - (b) compensation in accordance with this Act;
  - (c) expenses incurred in the determination of the value of any grain, seed, crop or bag in respect of which compensation is paid under this Act; and
  - (d) such amounts of money to the Resistant Grain Insects Eradication Fund established under section 8A as are authorised by or under that section.
- (2) Any moneys standing to the credit of the Fund may, until required for the purposes of this Act, be temporarily invested by the Treasurer in the same manner as public moneys standing to the credit of the Public Bank Account referred to in section 11 of the *Financial Management Act 2006* may be invested, and all interest derived from the investment shall be credited to the Fund.

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- (3) Moneys standing to the credit of the Fund at the time that this Act expires shall, with the approval of the Minister, be applied by the Protection Board in the eradication and prevention of the spread of weeds commonly occurring in crops.

*[Section 7 amended by No. 56 of 1980 s. 6; No. 49 of 1996 s. 64; No. 53 of 1996 s. 7; No. 77 of 2006 s. 17.]*

**8. Treasurer may make advances to the Fund in event of a deficiency**

- (1) Where the Treasurer is of opinion that the moneys standing to the credit of the Fund are at any time insufficient for the purposes of this Act, the Treasurer may advance to the Fund moneys sufficient for the time being to make up the deficiency.
- (2) Moneys advanced under subsection (1) shall be subsequently repaid to the Treasurer from moneys standing to the credit of the Fund by the Protection Board as and when moneys are available to the Fund to make repayment.
- (3) Moneys advanced by the Treasurer under this section are so long as they remain unpaid a charge on the Fund.

*[Section 8 amended by No. 98 of 1985 s. 3; No. 49 of 1996 s. 64.]*

**8A. Resistant Grain Insects Eradication Fund established**

- (1) An agency special purpose account called the Resistant Grain Insects Eradication Fund is established under section 16 of the *Financial Management Act 2006*.
- (2) There shall be credited to the Resistant Grain Insects Eradication Fund from the Skeleton Weed Eradication Fund an initial amount of \$20 000 and from time to time thereafter such further amounts as the Minister approves but so that —
- (a) no such amount shall be credited that brings the total of the moneys standing to the credit of the Resistant Grain Insects Eradication Fund to more than \$20 000; and

- (b) the total amount so credited during any period of 12 months ending on 31 October does not exceed \$20 000.

*[Section 8A inserted by No. 56 of 1980 s. 7; amended by No. 49 of 1996 s. 64; No. 28 of 2006 s. 24; No. 77 of 2006 s. 17.]*

**8B. Payments to be approved**

Subject to the Minister, all payments to be charged to the Resistant Grain Insects Eradication Fund shall be approved of by the Protection Board.

*[Section 8B inserted by No. 56 of 1980 s. 7; amended by No. 49 of 1996 s. 64.]*

**8C. Application of Resistant Grain Insects Eradication Fund**

- (1) The Resistant Grain Insects Eradication Fund shall be applied to the payment of expenses directly related to the eradication of resistant grain insects.
- (2) Any moneys standing to the credit of the Resistant Grain Insects Eradication Fund may, until required for the purposes of this Act, be temporarily invested by the Treasurer in any securities approved by the Treasurer, and all interest derived from the investment shall be credited to the Resistant Grain Insects Eradication Fund.
- (3) Moneys standing to the credit of the Resistant Grain Insects Eradication Fund at the time that this Act expires shall be dealt with as if the moneys were standing to the credit of the Skeleton Weed Eradication Fund.

*[Section 8C inserted by No. 56 of 1980 s. 7; amended by No. 49 of 1996 s. 64.]*

**8D. Plant Diseases Eradication Fund established**

- (1) An agency special purpose account called the Plant Diseases Eradication Fund is established under section 16 of the *Financial Management Act 2006*.

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- (2) The Plant Diseases Eradication Fund shall consist of contributions credited to it under this Act and amounts of interest credited to it under section 8F.

*[Section 8D inserted by No. 53 of 1996 s. 8; amended by No. 77 of 2006 s. 17.]*

**8E. Payments charged to Plant Diseases Eradication Fund**

All payments charged to the Plant Diseases Eradication Fund shall, before being so charged, be approved by both the Minister and the Protection Board.

*[Section 8E inserted by No. 53 of 1996 s. 8.]*

**8F. Application of Plant Diseases Eradication Fund**

- (1) The Plant Diseases Eradication Fund shall be applied to the payment of —
- (a) expenses directly related to the eradication of, or the prevention of the spread of, plant diseases;
  - (b) compensation in accordance with this Act in relation to a declared crop year;
  - (c) expenses incurred in the determination of the value of any grain, seed, crop or bag in respect of which compensation is paid under this Act in relation to a declared crop year; and
  - (d) expenses incurred by the Grain Pool within the meaning of the *Grain Marketing Act 1975*<sup>5</sup> before the expiry of a period of 6 months beginning on the commencement of section 8 of the *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1996*<sup>1</sup> in paying compensation to the owners of any lupins destroyed under a power exercised under the *Plant Diseases Act 1914*.
- (2) Any moneys standing to the credit of the Plant Diseases Eradication Fund may, until required for the purposes of this Act, be temporarily invested by the Treasurer in the same

manner as public moneys standing to the credit of the Public Bank Account referred to in section 11 of the *Financial Management Act 2006* may be invested, and all interest derived from that investment shall be credited to the Plant Diseases Eradication Fund.

- (3) Moneys standing to the credit of the Plant Diseases Eradication Fund at the time that this Act expires shall, with the approval of the Minister, be applied by the Protection Board in the eradication of, or the prevention of the spread of, plant diseases.

*[Section 8F inserted by No. 53 of 1996 s. 8; amended by No. 77 of 2006 s. 17.]*

**8G. Treasurer may make advances to the Plant Diseases Eradication Fund in event of a deficiency**

- (1) When the Treasurer is of opinion that the moneys standing to the credit of the Plant Diseases Eradication Fund are at any time insufficient for the purposes of this Act, the Treasurer may advance to the Plant Diseases Eradication Fund moneys sufficient for the time being to make up the deficiency.
- (2) Moneys advanced under subsection (1) shall be subsequently repaid to the Treasurer from moneys standing to the credit of the Plant Diseases Eradication Fund by the Protection Board as and when moneys are available to the Plant Diseases Eradication Fund to make repayment.
- (3) Moneys advanced by the Treasurer under this section are so long as they remain unrepaid a charge on the Plant Diseases Eradication Fund.

*[Section 8G inserted by No. 53 of 1996 s. 8.]*

**9. Liability of grower to pay contribution**

- (1) Subject to this Act, every grower who delivered 30 or more tonnes of —
  - (a) grain;
  - (b) seed; or

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(c) grain and seed,

to the Company or to a receiver of grain or seed grown during the crop year 1973-1974 shall pay a contribution to the Fund.

(2) Subject to this Act, every grower who delivers 30 or more tonnes of —

(a) grain;

(b) seed; or

(c) grain and seed,

to the Company or to a receiver of grain or seed grown during the crop year 1974-1975 or in respect of any subsequent crop year up to and including the crop year 1987-1988 shall in respect of each such crop year pay a contribution to the Fund.

(2a) Subject to this Act, every grower who delivers —

(a) grain;

(b) seed; or

(c) grain and seed,

to the Company or to a receiver of grain or seed, grown during the crop year 1988-1989, 1989-1990, 1990-1991 or during any other subsequent crop year shall in respect of that crop year pay a contribution to the Fund, in accordance with the order made for that crop year under subsection (3a).

(2b) Subject to subsection (2c), when during any crop year any grain, seed, crop or bag is destroyed under a power exercised under the *Plant Diseases Act 1914* and the owner of the grain, seed, crop or bag is in consequence entitled under section 13 to compensation, the Minister shall by notice published in the *Gazette* declare the crop year to be a declared crop year in relation to the kind of crop —

(a) to which the destroyed grain, seed or crop belonged; or

(b) by which the destroyed bag was contaminated.

- (2c) A declaration under subsection (2b) shall not be made more than once in each crop year in relation to the same kind of crop.
- (2d) Subject to this Act, every grower who delivers —
- (a) grain;
  - (b) seed; or
  - (c) grain and seed,
- harvested from a crop of the kind to which a declaration under subsection (2b) relates and grown during the relevant declared crop year shall in respect of that declared crop year pay a contribution to the Plant Diseases Eradication Fund in accordance with the order made for that declared crop year under subsection (3c).
- (3) The contribution prescribed by subsections (1) and (2) is —
- (a) in respect of a crop year up to and including the crop year 1984-1985, \$30; and
  - (b) in respect of any subsequent crop year up to and including the crop year 1987-1988, \$41.50.
- (3a) The Governor, on the recommendation of the Minister, shall, subject to subsection (3b), by order published in the *Gazette* prior to the commencement of each crop year referred to in subsection (2a) specify the amount of the contribution, or the method of calculating the contribution, to be paid to the Fund for that crop year.
- (3b) A recommendation made by the Minister under subsection (3a) shall be based on the cost or estimated cost of meeting the payments for services referred to in section 7.
- (3c) The Governor, on the recommendation of the Minister made forthwith after the making of a declaration under subsection (2b), shall, subject to subsection (3d), by order published in the *Gazette* as soon as practicable after the making of that recommendation, specify the amount of the contribution, or the method of calculating the contribution, to be paid to the

Plant Diseases Eradication Fund for the relevant declared crop year.

- (3d) A recommendation made by the Minister under subsection (3c) shall be based on the cost or estimated cost of meeting the payments for services referred to in section 8F in respect of the relevant declared crop year.
- (4) A grower is liable to pay only one contribution under subsections (1) and (2) in respect of each crop year and whether or not he delivers grain and seed or more than one type of grain and seed to the Company or to a receiver of grain or seed and any amount paid by or in respect of a grower that is in excess of the amount payable under this section shall be refunded to him.
- (5) For the purpose of ascertaining the contribution, if any, a grower is liable to pay to the Fund under this section all deliveries of both grain and seed made by him shall be aggregated and for the purposes of this Act any grain or seed —
- (a) delivered during the period of 12 months ended 31 October 1974 shall be deemed to have been grown during the crop year 1973-1974;
  - (b) delivered during the period of 12 months ending 31 October 1975 shall be deemed to have been grown during the crop year 1974-1975;
  - (c) delivered during the period of 12 months ending 31 October 1976 shall be deemed to have been grown during the crop year 1975-1976;
  - (d) delivered during the period of 12 months ending 31 October 1977 shall be deemed to have been grown during the crop year 1976-1977;
  - (e) delivered during the period of 12 months ending 31 October 1978 shall be deemed to have been grown during the crop year 1977-1978;
  - (f) delivered during the period of 12 months ending 31 October 1979 shall be deemed to have been grown during the crop year 1978-1979;



- (g) delivered during the period of 12 months ending 31 October 1980 shall be deemed to have been grown during the crop year 1979-1980;
- (h) delivered during the period of 12 months ending 31 October 1981 shall be deemed to have been grown during the crop year 1980-1981;
- (i) delivered during the period of 12 months ending 31 October 1982 shall be deemed to have been grown during the crop year 1981-1982;
- (j) delivered during the period of 12 months ending on 31 October 1983 shall be deemed to have been grown during the crop year 1982-1983;
- (k) delivered during the period of 12 months ending on 31 October 1984 shall be deemed to have been grown during the crop year 1983-1984;
- (l) delivered during the period of 12 months ending on 31 October 1985 shall be deemed to have been grown during the crop year 1984-1985;
- (m) delivered during the period of 12 months ending on 31 October 1986 shall be deemed to have been grown during the crop year 1985-1986;
- (n) delivered during the period of 12 months ending on 31 October 1987 shall be deemed to have been grown during the crop year 1986-1987;
- (o) delivered during the period of 12 months ending on 31 October 1988 shall be deemed to have been grown during the crop year 1987-1988;
- (p) delivered during the period of 12 months ending on 31 October 1989 shall be deemed to have been grown during the crop year 1988-1989;
- (q) delivered during the period of 12 months ending on 31 October 1990 shall be deemed to have been grown during the crop year 1989-1990;

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- (r) delivered during the period of 12 months ending on 31 October 1991 shall be deemed to have been grown during the crop year 1990-1991; and
- (s) delivered during any period of 12 months ending on 31 October of any year after the crop year 1990-1991 shall be deemed to have been grown during the crop year ending on 31 October next ensuing after that delivery,

unless the person delivering the grain or seed satisfies the Board that it was produced in another crop year.

- (6) For the purpose of ascertaining the contribution, if any, a grower is liable to pay to the Plant Diseases Eradication Fund under this section, all deliveries made by him of grain or seed or both harvested from the crop of the kind to which the relevant declaration under subsection (2b) relates shall be aggregated.
- (7) For the purposes of this Act, any grain or seed of the relevant kind delivered during the period of 12 months ending on 31 October of any year shall be deemed to have been grown during the relevant declared crop year, if any, ending on 31 October next ensuing after that delivery, unless the person delivering the grain or seed satisfies the Board that it was produced in another crop year.

*[Section 9 amended by No. 89 of 1976 s. 2; No. 21 of 1979 s. 2; No. 27 of 1982 s. 3; No. 67 of 1985 s. 4; No. 25 of 1988 s. 4; No. 23 of 1991 s. 4; No. 39 of 1995 s. 3; No. 53 of 1996 s. 9.]*

**10. When unpaid contribution becomes a debt**

A contribution referred to in section 9 —

- (a) in respect of the crop year 1973-1974 — is payable to the Fund within 6 months of the coming into operation of this Act;
- (b) in respect of the crop year 1974-1975 or in respect of any subsequent crop year up to and including the crop year 1987-1988 — is payable to the Fund on or before

the 1 June immediately succeeding the end of the relevant crop year;

- (c) in respect of the crop year 1988-1989, 1989-1990 or 1990-1991 is payable to the Fund not later than 28 days after the Company or receiver of grain or seed first makes a payment to the grower for grain or seed delivered during that year; and
- (d) in respect of —
  - (i) a crop year after the 1990-1991 crop year is payable to the Fund not later than 28 days after the Company or receiver of grain or seed first makes a payment to the grower for grain or seed during that crop year; or
  - (ii) a declared crop year is payable to the Plant Diseases Eradication Fund not later than 28 days after the Company or receiver of grain or seed first makes a payment to the grower for grain or seed of the kind to which the declared crop year relates during the declared crop year,

and if not paid within that time is a debt due to the Fund or the Plant Diseases Eradication Fund, as the case requires, that may be sued for and recovered in a court of competent jurisdiction by the Protection Board.

*[Section 10 amended by No. 89 of 1976 s. 3; No. 21 of 1979 s. 3; No. 27 of 1982 s. 4; No. 67 of 1985 s. 5; No. 25 of 1988 s. 5; No. 23 of 1991 s. 5; No. 53 of 1996 s. 10.]*

## **11. Appointment of receivers to receive contributions**

- (1) The Minister may by notice in the *Government Gazette* appoint a receiver of grain or seed to be an agent for the collection of contributions in respect of a grower the delivery of whose grain or seed, as the case requires, is made to him or it.

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- (2) An appointment of a receiver of grain or seed pursuant to subsection (1) may be made by reference to a person, a body corporate or other body or to a class of person, body corporate or other body.

**12. Deduction of contribution**

- (1) Subject to this Act, a receiver of grain or seed appointed under section 11 shall without any further authority than this subsection deduct, from any amounts payable by him or it to a grower, the amount of any contribution payable by the grower to the Fund or the Plant Diseases Eradication Fund, as the case requires, unless it appears to him or it that the contribution has already been paid by or in respect of a grower who is liable to pay the contribution, and a payment of the contribution by a receiver of grain or seed under this subsection operates to discharge the grower in respect of whom it is made from liability to pay the contribution.
- (2) The Company and every receiver of grain or seed referred to in subsection (1) shall forward to the Protection Board a return of all deliveries of grain or seed, as the case may be, made to it or him together with the amount of the contributions deducted in respect of the growers whose deliveries of grain or seed are set forth in the return.

*[Section 12 amended by No. 53 of 1996 s. 11.]*

**13. Assessment of compensation**

- (1) Subject to this Act, where in pursuance of any power exercised under the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914*, any grain, seed, crop or bag is destroyed because of the presence of —
- (a) skeleton weed; or
  - (b) a plant disease,
- therein or therewith the owner of the grain, seed, crop or bag is entitled to compensation as determined by this Act in respect of

the value of the grain, seed, crop or bag at the time of its destruction.

- (2) Subject to this section the value of grain, seed, crop or a bag for the purposes of this Act shall be determined by agreement between the owner and the Protection Board.
- (3) When assessing the value of grain, seed, crop or a bag for the purposes of subsection (1) the compensation payable shall not be reduced by reason only of the presence of —
  - (a) skeleton weed; or
  - (b) a plant disease,in or with the grain, seed, crop or bag.
- (4) Before the destruction of any grain or seed under any power conferred by the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914*, the inspector and the grower shall each take a sample of the grain or seed to be destroyed and in the event of a dispute as to the value of the grain or seed the samples so taken shall be forwarded to the Department for an assessment of the value of the grain or seed by an officer appointed for that purpose by the Director.
- (5) The decision of the officer referred to in subsection (4) is final.
- (6) In the event of a dispute as to the value of a crop or bag destroyed under any power conferred by the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914* the owner or the Protection Board may apply to the State Administrative Tribunal for a determination of the value.

*[Section 13 amended by No. 27 of 1982 s. 5; No. 53 of 1996 s. 12; No. 55 of 2004 s. 948.]*

**14. Limitation on payment of compensation**

- (1) Notwithstanding any other provision of this Act, compensation is not payable in respect of any grain, seed, crop or bag unless, within 2 months after the destruction of the grain, seed, crop or

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bag, a claim for compensation is made in that regard, by or on behalf of the owner in the manner and form prescribed.

- (2) Where —
- (a) a person has been convicted of an offence under the *Agriculture and Related Resources Protection Act 1976* by reason of an act or omission as a result of which grain, seed, crop or a bag becomes infested with or exposed to risk of being infested with skeleton weed; and
  - (b) after the commission of the offence referred to in paragraph (a), an amount of compensation becomes payable to that person, or to a partnership of which that person is a member, in respect of the grain, seed, crop or bag mentioned in that paragraph,

the Minister may, by instrument under his hand, direct that the whole, or such part as he thinks fit, of the amount of compensation be not paid.

- (3) Subject to the direction of the Minister, no compensation is payable under section 13 in respect of a destroyed crop if, at the time of the destruction —
- (a) the land on which the crop was growing was quarantined under the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981* made under the *Agriculture and Related Resources Protection Act 1976*;
  - (b) a written direction had been given under that Act to the occupier or owner of that land requiring him to harvest that land in a specified time and manner; and
  - (c) the owner or occupier had not complied with that direction.

*[Section 14 amended by No. 27 of 1982 s. 6; No. 39 of 1995 s. 4.]*

**15. False information**

A person who knowingly makes a false statement, or who does, or is concerned in, any fraudulent act, for the purpose of obtaining any pecuniary benefit under this Act, whether for himself or for any other person, commits an offence.

Penalty: \$2 000.

*[Section 15 amended by No. 20 of 1989 s. 3.]*

**16. Penalty**

A person who contravenes or fails to comply with any of the provisions of this Act commits an offence and is liable on conviction, where no other penalty is prescribed, to a penalty of \$2 000.

*[Section 16 amended by No. 20 of 1989 s. 3.]*

**17. Regulations**

The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make such other regulations as are, in his opinion, necessary or expedient for giving full effect to and for the purposes of the administration of this Act.

*[18. Repealed by No. 57 of 2003 s. 4.]*

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### Notes

- <sup>1</sup> This reprint is a compilation as at 12 September 2008 of the *Plant Pests and Diseases (Eradication Funds) Act 1974* and includes the amendments made by the other written laws referred to in the following table <sup>1a, 6</sup>. The table also contains information about any reprint.

#### Compilation table

Short title	Number and year	Assent	Commencement
<i>Skeleton Weed (Eradication Fund) Act 1974</i> <sup>7</sup>	76 of 1974	10 Dec 1974	13 Dec 1974 (see s. 2 and <i>Gazette</i> 13 Dec 1974 p. 5321)
<i>Skeleton Weed (Eradication Fund) Act Amendment Act 1976</i>	89 of 1976	4 Nov 1976	4 Nov 1976
<i>Skeleton Weed (Eradication Fund) Act Amendment Act 1979</i>	21 of 1979	30 Aug 1979	30 Aug 1979
<i>Skeleton Weed (Eradication Fund) Amendment Act 1980</i>	56 of 1980	24 Nov 1980	24 Nov 1980
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1982</i>	27 of 1982	27 May 1982	27 May 1982
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1985</i>	67 of 1985	15 Nov 1985	1 Nov 1985 (see s. 2)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1988</i>	25 of 1988	31 Oct 1988	31 Oct 1988 (see s. 2)
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)



**Plant Pests and Diseases (Eradication Funds) Act 1974**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1991</i>	23 of 1991	3 Oct 1991	3 Oct 1991 (see s. 2)
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1994</i>	48 of 1994	4 Oct 1994	1 Nov 1994
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1995</i>	39 of 1995	29 Sep 1995	27 Oct 1995
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1996</i> <sup>8</sup>	53 of 1996	31 Oct 1996	31 Oct 1996 (see s. 2)
<b>Reprint of the Plant Pests and Diseases (Eradication Funds) Act 1974 as at 30 Jul 1999</b> (includes amendments listed above)			
<i>Plant Pests and Diseases (Eradication Funds) Amendment Act 2000</i>	15 of 2000	9 Jun 2000	9 Jun 2000 (see s. 2)
<i>Plant Pests and Diseases (Eradication Funds) Amendment Act 2002</i>	31 of 2002	28 Oct 2002	28 Oct 2002 (see s. 2)
<i>Plant Pests and Diseases (Eradication Funds) Amendment Act 2003</i>	57 of 2003	29 Oct 2003	29 Oct 2003 (see s. 2)
<b>Reprint 2: The Plant Pests and Diseases (Eradication Funds) Act 1974 as at 12 Dec 2003</b> (includes amendments listed above)			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 105</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>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 2 Div. 6</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)

**Plant Pests and Diseases (Eradication Funds) Act 1974**

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Short title	Number and year	Assent	Commencement
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

**Reprint 3: The Plant Pests and Diseases (Eradication Funds) Act 1974 as at 12 Sep 2008** (includes amendments listed above)

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

**Provisions that have not come into operation**

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Short title	Number and year	Assent	Commencement
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 38, 68, 70-73 and 92 <sup>10</sup>	24 of 2007	12 Oct 2007	To be proclaimed (see s. 2(1))

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<sup>2</sup> The *Companies Act 1893* was repealed by the *Companies Act 1943*, which was repealed by the *Companies Act 1961* s. 4 and 382(2) except in relation to Co-operative Companies, in respect of which it may now be cited as the *Companies (Co-operative) Act 1943*. The *Companies Act 1961* was superseded by the *Companies (Western Australia) Code*, see section 18 of the *Companies (Application of Laws) Act 1981*. The *Companies (Western Australia) Code* was superseded by the Corporations Law which, on 15 July 2001, was superseded by the *Corporations Act 2001* of the Commonwealth. See Part 13 Division 2 of the *Corporations (Western Australia) Act 1990* and Part 2 of the *Corporations (Ancillary Provisions) Act 2001* respectively.

<sup>3</sup> Under the *Alteration of Statutory Designations Order 2006* a reference in a written law to the Department of Agriculture is, unless the contrary is intended, to be read and construed as a reference to the Department of Agriculture and Food.

<sup>4</sup> Changed to Director General of Agriculture by s. 16 of the *Agriculture Act 1988*, which was repealed by the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 8. In the *Biosecurity and Agriculture Management Act 2007* s. 6 the term *Director General* means the chief executive officer of the department principally assisting in the administration of that Act.

- <sup>5</sup> Repealed by the *Grain Marketing Act 2002*.
- <sup>6</sup> The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 38 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- <sup>7</sup> Now known as the *Plant Pests and Diseases (Eradication Funds) Act 1974*; short title changed (see note under s. 1).
- <sup>8</sup> The *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1996* s. 8(2), (3) and (4) are transitional provisions that are of no further effect.
- <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> On the date as at which this reprint was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 38, 68, 70-73 and 92 had not come into operation. They read as follows:

“

**38. Plant Pests and Diseases (Eradication Funds) Act 1974 amended**

- (1) The amendments in this section are to the *Plant Pests and Diseases (Eradication Funds) Act 1974*.
- (2) After section 4 the following section is inserted —

“

**4A. Authority has functions of Protection Board**

- (1) On and after the coming into operation of the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 34 —
  - (a) a reference in this Act to the Protection Board is to be taken to be a reference to the Authority; and
  - (b) the Authority has all of the functions conferred on the Protection Board under this Act.
- (2) In this section —

**Authority** means the Western Australian Agriculture Authority established under the *Biosecurity and Agriculture Management Act 2007*.

”

**68. Repeal**

The *Plant Pests and Diseases (Eradication Funds) Act 1974* is repealed.

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

In this Subdivision, unless the contrary intention appears —  
**commencement day** means the day on which section 68 comes into operation;

**grain and seed crops account** means the prescribed account referred to in section 2(5)(a);

**repealed Act** means the *Plant Pests and Diseases (Eradication Funds) Act 1974*.

**71. Compensation claims made before repeal**

- (1) Despite section 68, an application for compensation under the repealed Act that arose but was not fully dealt with before the commencement day is to be dealt with under the repealed Act as if that Act had not been repealed.
- (2) The amount of any compensation payable on a claim referred to in subsection (1) is to be paid from the grain and seed crops account.

**72. Transfer and payment of skeleton weed moneys to relevant account**

- (1) On and after the commencement day —
  - (a) all moneys standing to the credit of the Skeleton Weed Eradication Fund established by the repealed Act section 5 (the **Fund**) are to be credited to the grain and seed crops account, and the Skeleton Weed Eradication Fund is then to be closed; and
  - (b) any contribution that —
    - (i) immediately before the commencement day is in the hands of a receiver under the repealed Act for payment to the Fund; or
    - (ii) after the commencement day is deducted as mentioned in subsection (2),is to be paid to the grain and seed crops account.
- (2) Sections 12 and 16 of the repealed Act are taken to continue to apply after the commencement day in respect of any contribution that was required to be, but that was not actually, deducted before that day.

**73. Application of other Funds under the repealed Act**

- (1) This section applies to any moneys that after the commencement day are standing to the credit of —
  - (a) the Resistant Grain Insects Eradication Fund established by the repealed Act section 8A; or

- (b) the Plant Diseases Eradication Fund established by the repealed Act section 8D.
- (2) On the commencement day any moneys referred to in subsection (1) are to be credited to the grain and seed crops account, and the funds referred to in subsection (1)(a) and (b) are then to be closed.

**92. *Plant Pests and Diseases (Eradication Funds) Act 1974* amended**

- (1) The amendments in this section are to the *Plant Pests and Diseases (Eradication Funds) Act 1974*.
- (2) Section 4(1) is amended as follows:
  - (a) by deleting the definition of “inspector” and inserting instead —

“

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

”.

- (b) by deleting the definition of “resistant grain insects” and inserting instead —

“

***resistant grain insects*** means insects that belong to a class of animals designated under subsection (3);

”.

- (3) After section 4(2) the following subsection is inserted —

“

- (3) The Minister may, for the purposes of the definition of “resistant grain insects” in subsection (1), by notice published in the *Gazette* —
  - (a) designate any class of insects that —
    - (i) have a detrimental effect on grain; and
    - (ii) the Protection Board believes, on the basis of reasonable evidence available to it, have a resistance to insecticides that are in general use to such an extent as to render those insecticides inadequate for the eradication of those insects;
  - and
  - (b) amend or revoke a designation made under this subsection.

”.

- (4) Section 9(2b) is amended by deleting “the *Plant Diseases Act 1914*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.
- (5) Section 13(1) is amended by deleting “the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.
- (6) Section 13(4) is amended by deleting “the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.
- (7) Section 13(6) is amended by deleting “the *Agriculture and Related Resources Protection Act 1976* or *Plant Diseases Act 1914*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.
- (8) Section 14(2)(a) is amended by deleting “the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.
- (9) Section 14(3)(a) is amended by deleting “the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981* made under the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —  
“ the *Biosecurity and Agriculture Management Act 2007* ”.

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## 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>
Company .....	4(1)
contribution .....	4(1)
crop .....	4(1)
crop year .....	4(1)
declared crop year .....	4(1)
Department .....	4(1)
Director .....	4(1)
Fund .....	4(1)
grain .....	4(1)
grower .....	4(1)
inspector .....	4(1)
lupins .....	4(1)
owner .....	4(1)
plant disease .....	4(1)
Plant Diseases Eradication Fund .....	4(1)
Protection Board .....	4(1)
receiver of grain or seed .....	4(1)
resistant grain insects .....	4(1)
Resistant Grain Insects Eradication Fund .....	4(1)
seed .....	4(1)
skeleton weed .....	4(1)