

Western Australia

**Agriculture and Related Resources Protection
Amendment Act 2010**

As at 28 Oct 2010

No. 46 of 2010

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Agriculture and Related Resources Protection Amendment Act 2010

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Agriculture and Related Resources Protection Act 1976* amended

3.	Act amended	3
4.	Section 4 amended	3
5.	Section 6 deleted	3
6.	Section 7 amended	3
7.	Sections 8 and 9 deleted	5
8.	Section 10 replaced	5
	10. Delegation by Minister	5
	11A. Delegation by Director General	5
9.	Section 11 amended	6
10.	Section 12 deleted	6
11.	Part III deleted	6
12.	Section 37 replaced	6
	37. List of declared animals and plants	6
13.	Section 41 amended	7
14.	Section 42 amended	7
15.	Section 44 amended	7
16.	Section 45 amended	8
17.	Section 46 amended	8

Contents

18.	Section 49 amended	8
19.	Section 51 amended	8
20.	Section 52 amended	8
21.	Section 54 amended	9
22.	Section 55 amended	10
23.	Section 56 amended	10
24.	Heading to Part V Division 5 amended	11
25.	Section 58 amended	11
26.	Section 59 amended	12
27.	Section 60 amended	12
28.	Section 61 deleted	13
29.	Section 62 amended	13
30.	Section 63 amended	13
31.	Section 64 amended	14
32.	Section 65 amended	14
33.	Section 72 amended	15
34.	Section 74 amended	15
35.	Section 75 amended	16
36.	Section 77 amended	17
37.	Section 78 amended	17
38.	Section 79 amended	17
39.	Section 80 amended	17
40.	Section 81 amended	18
41.	Section 83 amended	18
42.	Section 83A amended	18
43.	Section 94A amended	18
44.	Sections 95 and 96 replaced	18
	95. Judicial notice of signatures	18
	96. Authentication of documents	19
45.	Section 97 amended	19
46.	Section 98 replaced	19
	98. Prosecutions	19
47.	Section 99 amended	20
48.	Section 103 replaced	20
	103. Governor may make regulations	20
49.	Section 104 amended	20
50.	Section 105 amended	20
51.	Section 106 amended	21
52.	Section 108 replaced	23
	108. Penalties under regulations	23
53.	Part X deleted	23

54.	Part XI inserted	23
	Part XI — Agriculture and Related Resources Protection Amendment Act 2010 — Savings and transitional provisions	
	120. Terms used	23
	121. Approvals and certificates	24
	122. Authorised persons	24
	123. Declarations	24
	124. Rates payable under section 61	24
	125. Funds in, or payable to, former account	25
	126. Management programmes	25
	127. Notices	26
	128. Permissions and authorities	26
	129. Transitional regulations	26
55.	Various references to “Protection Board” amended	28
56.	Various penalties amended	29
	Part 3 — Amendments to Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007	
57.	Act amended	30
58.	Section 2 amended	30
59.	Section 30A inserted	30
	30A. <i>Firearms Act 1973</i> amended	30
60.	Section 30 amended	31
61.	Sections 32 and 33 deleted	31
62.	Section 37 deleted	31
63.	Section 38 deleted	31
64.	Section 58 amended	31
65.	Section 92 deleted	32
66.	Section 93 amended	32
	Part 4 — Amendments to other Acts	
67.	<i>Aerial Spraying Control Act 1966</i> amended	33
68.	<i>Biosecurity and Agriculture Management Act 2007</i> amended	33
69.	<i>Firearms Act 1973</i> amended	33
70.	<i>Plant Pests and Diseases (Eradication Funds) Act 1974</i> amended	36
71.	<i>Poisons Act 1964</i> amended	38

Western Australia

Agriculture and Related Resources Protection Amendment Act 2010

No. 46 of 2010

An Act —

- **to amend the *Agriculture and Related Resources Protection Act 1976*; and**
 - **to amend the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*,**
- and for related purposes.**

[Assented to 28 October 2010]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Agriculture and Related Resources Protection Amendment Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Agriculture and Related Resources Protection Act 1976* amended

3. Act amended

This Part amends the *Agriculture and Related Resources Protection Act 1976*.

4. Section 4 amended

Delete section 4(2).

5. Section 6 deleted

Delete section 6.

6. Section 7 amended

- (1) In section 7(1) delete the definitions of:

authority

chairman

Chief Officer

committee

Control Account

Deputy Chief Officer

eligible person

inspector

member

producer association

Protection Board

region

zone

s. 6

- (2) In section 7(1) insert in alphabetical order:

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

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;

- (3) In section 7(1) in the definition of *animal-proof fence* paragraph (b) delete “Chief Officer” and insert:

Director General

- (4) In section 7(1) in the definition of *authorised person* delete “Protection Board or the Chief Officer” and insert:

Director General

- (5) In section 7(1) in the definition of *rabbit-proof fence* paragraph (b) delete “Chief Officer his” and insert:

Director General as

- (6) In section 7(1) in the definition of *watercourse* delete “constructed;” and insert:

constructed.

7. Sections 8 and 9 deleted

Delete sections 8 and 9.

8. Section 10 replaced

Delete section 10 and insert:

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.

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

s. 9

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.

9. Section 11 amended

In section 11(1) delete “Chairman of the Protection Board or the Chief Officer” and insert:

Director General

10. Section 12 deleted

Delete section 12.

11. Part III deleted

Delete Part III.

12. Section 37 replaced

Delete section 37 and insert:

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.

13. Section 41 amended

After section 41(2) insert:

(3) The Director General may supply poison under subsection (1) despite anything to the contrary in the *Poisons Act 1964*.

14. Section 42 amended

In section 42 delete the Penalty and insert:

Penalty: a fine of \$20 000.

15. Section 44 amended

In section 44(1) delete the Penalty and insert:

Penalty: a fine of \$50 000.

s. 16

16. Section 45 amended

In section 45(1) delete “Protection Board and may be sued for and recovered” and insert:

State and may be sued for and recovered by the
Director General on behalf of the State

17. Section 46 amended

After section 46(2) insert:

- (3) The Director General may supply poison under subsection (1) despite anything to the contrary in the *Poisons Act 1964*.

18. Section 49 amended

In section 49 delete the Penalty and insert:

Penalty: a fine of \$20 000.

19. Section 51 amended

In section 51(1) delete the Penalty and insert:

Penalty: a fine of \$50 000.

20. Section 52 amended

In section 52(2):

- (a) delete “authorised officer” and insert:

authorised person

- (b) delete “Protection Board, and may be sued for and recovered” and insert:

State, and may be sued for and recovered by the
Director General on behalf of the State

Note: The heading to amended section 52 is to read:

Work and recovery of costs

21. Section 54 amended

- (1) In section 54(1):

- (a) delete “or the Protection Board,” and insert:

or an inspector or authorised person,

- (b) delete “determined by the Protection Board, which shall notify the parties concerned of its decision forthwith on the making thereof.” and insert:

decided by the Director General.

- (2) After section 54(1) insert:

- (2) The Director General must notify the parties concerned of any decision made under subsection (1).

- (3) In section 54(4):

- (a) delete “Protection Board for it” and insert:

Director General for the Director General

s. 22

- (b) delete “Protection Board may,” (each occurrence) and insert:

Director General may,

- (c) delete “it considers” and insert:

the Director General considers

- (d) delete “Protection Board declares” and insert:

Director General declares

22. Section 55 amended

After section 55(2) insert:

- (3) The Director General may supply poison under subsection (1) despite anything to the contrary in the *Poisons Act 1964*.

23. Section 56 amended

- (1) In section 56(1) delete “by written authorisation under seal,”.

- (2) After section 56(1) insert:

- (2A) The delegation must be in writing signed by the Director General.

Note: The heading to amended section 56 is to read:

Director General may delegate powers to local governments

24. Heading to Part V Division 5 amended

In the heading to Part V Division 5 delete “**by Protection Board**”.

25. Section 58 amended

(1) Delete section 58(1) and insert:

(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
- (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.

s. 26

- (2) In section 58(2) delete “the powers of the Protection Board” and insert:

powers

Note: The heading to amended section 58 is to read:

Operational work may be carried out

26. Section 59 amended

In section 59(1) delete “on the Protection Board or an inspector or authorised person”.

27. Section 60 amended

- (1) In section 60(1) delete “1 July 2006” and insert:

1 July immediately following the coming into
operation of the *Agriculture and Related Resources
Protection Amendment Act 2010* section 27

- (2) In section 60(3) delete “Protection Board, with the approval of the Minister, may,” and insert:

Minister may,

- (3) Delete section 60(5) and (6) and insert:

- (5) Different rates may be imposed in respect of different land and different classes of land.

- (4) After section 60(7) insert:
- (8) Despite the amendments made by the *Agriculture and Related Resources Protection Amendment Act 2010* section 27 (the **amending section**), this section, as in force immediately before the amending section came into operation, continues to apply in relation to a rate payable for a financial year commencing before a financial year referred to in subsection (1).

Note: The heading to amended section 60 is to read:

Rates on pastoral leases

28. Section 61 deleted

Delete section 61.

29. Section 62 amended

- (1) In section 62(2) delete “each of sections 60 and 61,” and insert:
- section 60,
- (2) In section 62(8) delete “or 61”.

30. Section 63 amended

- (1) In section 63(1) delete “or 61”.
- (2) Delete section 63(2).
- (3) In section 63(3) delete “or 61”.
- (4) In section 63(3a):
- (a) delete “or 61”;

s. 31

(b) in paragraph (a) delete “Protection Board” and insert:

State

(c) in paragraph (b) delete “Protection Board;” and insert:

State;

(5) In section 63(4) delete “Protection Board,” and insert:

Minister,

(6) Delete section 63(5).

(7) In section 63(6) delete “or 61”.

31. Section 64 amended

(1) In section 64(1) and (2) delete “or 61”.

(2) In section 64(5) delete “or 61”.

32. Section 65 amended

(1) Delete section 65(1) and insert:

(1) All rates recovered under section 60 are to be credited to the Declared Pest Account.

(2) Delete section 65(3)(a).

(3) In section 65(3)(b):

(a) delete “to which this subsection applies”;

(b) delete “Control Account.” and insert:

Declared Pest Account.

(4) Delete section 65(4) and insert:

- (4) The costs of assessing, receiving and recovering rates under section 60 are to be charged under this subsection to the Consolidated Account.
- (5) If, in any financial year, the costs referred to in subsection (4) exceed the sum approved from time to time by the Treasurer, the Minister must, upon receipt of a certificate from the Commissioner certifying the amount of that excess, charge to the Declared Pest Account and credit to the Consolidated Account a sum equal to the amount of that excess.

Note: The heading to amended section 65 is to read:

Rates to be credited to Declared Pest Account

33. Section 72 amended

In section 72 delete the Penalty and insert:

Penalty: a fine of \$50 000.

34. Section 74 amended

(1) At the end of section 74(1) insert:

Penalty: a fine of \$50 000.

s. 35

(2) Delete section 74(2) and insert:

(2) A person who brings into the State from elsewhere any coat, fodder, machinery, sack, seed, wool pack or restricted animal must, immediately on arrival of that thing, deliver the thing into the custody of an inspector or authorised person.

Penalty: a fine of \$50 000.

(3) At the end of section 74 delete the Penalty.

35. Section 75 amended

(1) At the end of section 75(1) insert:

Penalty: a fine of \$20 000.

(2) At the end of section 75(1a) insert:

Penalty: a fine of \$20 000.

(3) At the end of section 75(1b) insert:

Penalty: a fine of \$20 000.

(4) At the end of section 75(2) insert:

Penalty: a fine of \$20 000.

(5) At the end of section 75 delete the Penalty.

36. Section 77 amended

- (1) In section 77(1) delete the Penalty and insert:

Penalty: a fine of \$50 000.

- (2) In section 77(2) delete “it considers” and insert:

the Director General considers

37. Section 78 amended

In section 78 delete the Penalty and insert:

Penalty: a fine of \$20 000.

38. Section 79 amended

- (1) At the end of section 79(1) insert:

Penalty: a fine of \$20 000.

- (2) At the end of section 79(2) insert:

Penalty: a fine of \$20 000.

- (3) At the end of section 79 delete the Penalty.

39. Section 80 amended

- (1) In section 80(1) delete the Penalty and insert:

Penalty: a fine of \$20 000.

s. 40

- (2) In section 80(2) delete “it considers” and insert:

the Director General considers

40. Section 81 amended

In section 81 delete the Penalty and insert:

Penalty: a fine of \$20 000.

41. Section 83 amended

In section 83(1) delete the Penalty and insert:

Penalty: a fine of \$20 000.

42. Section 83A amended

Delete section 83A(3), (4), (5) and (6).

43. Section 94A amended

In section 94A delete “Chief Officer” and insert:

Director General

44. Sections 95 and 96 replaced

Delete sections 95 and 96 and insert:

95. Judicial notice of signatures

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

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.

45. Section 97 amended

In section 97(1):

- (a) delete “the Minister or the Protection Board,” and insert:

the State under this Act,

- (b) delete “Minister, the Chairman of the Protection Board or the Chief Officer,” and insert:

Minister or the Director General,

- (c) delete “the Minister or the Protection Board in” and insert:

the Minister or the Director General in

46. Section 98 replaced

Delete section 98 and insert:

98. Prosecutions

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

s. 47

47. Section 99 amended

In section 99 delete “it may,” and insert:

the Minister may,

48. Section 103 replaced

Delete section 103 and insert:

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.

49. Section 104 amended

In section 104:

- (a) delete paragraphs (a), (b), (c) and (d);
- (b) in paragraph (g) delete “Protection Board.” and insert:

State.

50. Section 105 amended

In section 105:

- (a) in paragraph (e) delete “to the Protection Board”;
- (b) delete paragraph (s)(iii) and “and” after it and insert:

(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;

- (c) in paragraph (t)(iii) delete “Protection Board to impose, in any permit issued by it under regulations made pursuant to this paragraph, any further conditions and restrictions as to such introduction, keeping, sale, or disposal that it” and insert:

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

- (d) in paragraph (w) delete “Protection Board” and insert:

department

- (e) in paragraph (x) delete “referred to in section 8(1)(k) of the *Agriculture Protection Board Act 1950*” and insert:

for the destruction of declared animals

51. Section 106 amended

In section 106(1):

- (a) in paragraph (a) delete “Minister and the Protection Board to erect,” and insert:

Director General to erect,

s. 51

- (b) in paragraph (a) delete “Minister and the Protection Board and their respective” and insert:

Director General and the department’s

- (c) in paragraph (b) delete “Crown and the Protection Board” and insert:

State

- (d) in paragraph (b) delete “Crown or Protection Board;” and insert:

State;

- (e) in paragraph (j) delete “Chief Officer” and insert:

Director General

- (f) in paragraph (n)(i) delete “Minister or Protection Board” and insert:

State

- (g) in paragraph (p) delete “Minister or the Protection Board” and insert:

State

52. Section 108 replaced

Delete section 108 and insert:

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.

53. Part X deleted

Delete Part X.

54. Part XI inserted

At the end of the Act insert:

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

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;

Protection Board means the Agriculture Protection Board of Western Australia constituted under the *Agriculture Protection Board Act 1950*.

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.

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.

123. Declarations

A declaration made by the Protection Board under this Act 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 a declaration of the Minister.

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, 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.

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;
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.

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.

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.

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 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.

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*.

- (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.

s. 55

55. Various references to “Protection Board” amended

- (1) In the provisions listed in the Table delete “Protection Board” (each occurrence) and insert:

Minister

Table

s. 7(1) def. of <i>declaration</i>	s. 7(1) def. of <i>management programme</i>
s. 35(1)	s. 36(1), (3) and (4)
s. 66(1), (3) and (4)(c)	s. 99

- (2) In the provisions listed in the Table delete “Protection Board” (each occurrence) and insert:

Director General

Table

s. 7(1) def. of <i>barrier fence</i>	s. 41(1) and (2)
s. 46(1) and (2)	s. 48
s. 50(1)(b)	s. 51(2a)
s. 54(5)	s. 55(1) and (2)
s. 56(1) and (2)	s. 68(3), (4) and (5)
s. 69(1)	s. 71(2)

s. 74(1)	s. 75(2)
s. 76(1) and (2)	s. 77(2) and (4)
s. 79(2)	s. 80(2) and (4)
s. 84(4)	s. 106(1)(c), (d), (i) and (k)

56. Various penalties amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 48	\$200	a fine of \$20 000
s. 53	\$500	a fine of \$20 000
s. 68(6)	\$1 000	a fine of \$50 000
s. 69(3)	\$500	a fine of \$20 000
s. 70(3)	\$500	a fine of \$20 000
s. 83A(2)	\$1 000	a fine of \$50 000
s. 85(4)	\$2 000	a fine of \$20 000
s. 87	\$2 000	a fine of \$20 000
s. 88	\$1 500	a fine of \$20 000
s. 92(6)	\$200	a fine of \$20 000

Part 3 — Amendments to *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*

57. Act amended

This Part amends the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*.

58. Section 2 amended

Delete section 2(3).

59. Section 30A inserted

At the end of Part 2 Division 6 Subdivision 1 insert:

30A. *Firearms Act 1973* amended

(1) This section amends the *Firearms Act 1973*.

(2) Delete section 17B(3)(c) and insert:

(c) shall not use a silencer otherwise than in conjunction with a .22 calibre rifle named and identified in the Corporate Licence referred to in subsection (7) for the purpose of shooting birds that are declared pests under the *Biosecurity and Agriculture Management Act 2007*;

(3) In section 17B(8) delete the definition of *agriculture inspector* and insert:

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

60. Section 30 amended

In section 30 delete the definition of *former account*.

61. Sections 32 and 33 deleted

Delete sections 32 and 33.

62. Section 37 deleted

Delete section 37.

63. Section 38 deleted

Delete section 38.

64. Section 58 amended

- (1) In section 58(1) delete the passage that begins with “to be applied —” and continues to the end of paragraph (c) and insert:

(the *cattle industry account*)

- (2) After section 58(1) insert:

- (2A) Moneys credited to the cattle industry account as referred to in subsection (1) are to be applied for the following purposes —
- (a) in the payment of compensation payable on an application referred to in section 57 made under the repealed Act;
 - (b) in the payment of any liabilities of the former account which arose before the commencement day;
 - (c) in the payment of the costs of the provision of, or the promotion and encouragement of,

s. 65

- scientific research for the improvement of cattle health and production;
- (d) for the purposes set out in the regulations under the BAM Act section 141 establishing the account;
 - (e) for any other purpose that, in the opinion of the management committee established for the account, will promote and encourage the cattle industry.

65. Section 92 deleted

Delete section 92.

66. Section 93 amended

Delete section 93(2) and insert:

- (2) Section 32(c) is amended by deleting “for the purposes of the *Agriculture and Related Resources Protection Act 1976* section 69” and inserting instead —

“

for the purposes of the *Biosecurity and Agriculture Management Act 2007* section 42

”.

Part 4 — Amendments to other Acts

67. *Aerial Spraying Control Act 1966* amended

- (1) This section amends the *Aerial Spraying Control Act 1966*.
- (2) In section 13A(1) delete “or the Agriculture Protection Board”.

68. *Biosecurity and Agriculture Management Act 2007* amended

- (1) This section amends the *Biosecurity and Agriculture Management Act 2007*.
- (2) In section 138(a) delete “prescribed land in prescribed situations (if any);” and insert:

areas for which the rates were collected under Division 1;

- (3) In section 138(e) delete “section 139(3).” and insert:

section 139(3);

- (4) After section 138(e) insert:

(f) for any purpose authorised under this Act or another written law.

69. *Firearms Act 1973* amended

- (1) This section amends the *Firearms Act 1973*.
- (2) In section 17B(1) delete “officer or employee of the Board” and insert:

agriculture inspector

- (3) In section 17B(3):
- (a) delete “officer or employee” and insert:

agriculture inspector
 - (b) delete paragraph (c) and insert:

(c) shall not use a silencer otherwise than in conjunction with a .22 calibre rifle named and identified in the Corporate Licence referred to in subsection (7) for the purpose of shooting birds that are —
 - (i) declared animals under the *Agriculture and Related Resources Protection Act 1976*; or
 - (ii) declared pests under the *Biosecurity and Agriculture Management Act 2007*;and
 - (c) after each of paragraphs (a), (b) and (d) insert:

and
- (4) In section 17B(4):
- (a) delete “officer or employee” and insert:

agriculture inspector
 - (b) delete “the Board” and insert:

the Director General

- (5) After each of section 17B(5)(a) and (b) insert:

or

- (6) In section 17B(6) delete “officer or employee of the Board” and insert:

agriculture inspector

- (7) In section 17B(7) delete “the Board” (each occurrence) and insert:

the department

- (8) In section 17B(8) delete the definitions of:

subsection

the Board

- (9) In section 17B(8) insert in alphabetical order:

agriculture inspector means —

- (a) an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162; or

- (b) an authorised person as defined in the *Agriculture and Related Resources Protection Act 1976* section 7(1);

department means the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*;

s. 70

- (10) In section 17B(8) in the definition of *silencer* delete “nature;” and insert:

nature.

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

- (1) This section amends the *Plant Pests and Diseases (Eradication Funds) Act 1974*.
- (2) In section 4(1) delete the definitions of:
Department
Director
Protection Board
resistant grain insects
- (3) In section 4(1) insert in alphabetical order:

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

Director General means the chief executive officer of the Department;

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

- (4) After section 4(2) insert:
- (3) The Minister may, for the purposes of the definition of ***resistant grain insects*** in subsection (1), by notice published in the *Gazette* designate any class of insects that —
- (a) have a detrimental effect on grain; and

- (b) the Director General believes, on the basis of reasonable evidence available to the Director General, 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.
- (4) The Minister may amend or revoke any designation made under subsection (3).
- (5) In section 9(5) delete “Board” and insert:
- Director General
- (6) In section 9(7) delete “Board” and insert:
- Director General
- (7) In section 13(4) delete “Director.” and insert:
- Director General.
- (8) In the provisions listed in the Table delete “Protection Board” (each occurrence) and insert:
- Director General

Table

s. 6	s. 7(3)
s. 8(2)	s. 8B

s. 71

s. 8E	s. 8F(3)
s. 8G(2)	s. 10
s. 12(2)	s. 13(2) and (6)

71. *Poisons Act 1964* amended

- (1) This section amends the *Poisons Act 1964*.
- (2) In section 32(c) delete “provided by section 69 of the *Agriculture and Related Resources Protection Act 1976* or section 8(2) of the *Agriculture Protection Board Act 1950*,” and insert:

for the purposes of the *Agriculture and Related Resources Protection Act 1976* section 69,

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