



Western Australia

Agriculture and Related Resources Protection Act 1976

## **Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982**

These regulations were repealed by the *Biosecurity and Agriculture Management Regulations 2013* r. 137(a) as at 1 May 2013 (see r. 2(b) and *Gazette* 5 Feb 2013 p. 823).

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Western Australia

# **Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982**

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### **Defined terms**



## **Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982**

### **1. Citation**

These regulations may be cited as the *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982*<sup>1</sup>.

### **2. Commencement**

These regulations shall come into operation on the 28th day after the day on which they are published in the *Government Gazette*<sup>1</sup>.

[3. *Omitted under the Reprints Act 1984 s. 7(4)(e).*]

### **4. Interpretation**

- (1) In these regulations unless the contrary intention appears —
- inspector* includes an authorised person;
  - regulation* means one of these regulations;
  - Schedule* means the Schedule to these regulations;
  - subregulation* means a subregulation of the regulation in which the term is used;
  - the Act* means the *Agriculture and Related Resources Protection Act 1976*.

**r. 5**

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- (2) The definitions set out in section 71(1) of the Act apply to these regulations.

*[Regulation 4 amended in Gazette 17 Dec 2010 p. 6411.]*

**5. Notice of intention to bring consignment into State**

Notice given for the purposes of section 74(1)(a) of the Act may be given orally or in writing.

*[Regulation 5 inserted in Gazette 17 Dec 2010 p. 6411.]*

**6. Importing restricted animals**

- (1) No person shall bring into the State from elsewhere any restricted animal unless —

- (a) throughout the period subsequent to the time of inspection referred to in the certificate signed by an inspector of the Department of Agriculture in the State from which it was consigned, the animal was held in a place or yard which, and the immediate surrounding area of which, was free from declared plants; and
- (b) the removal from the place of inspection was carried out by road transport or by rail.

Penalty: a fine of \$2 000.

- (2) If, on arrival in Western Australia, the length of wool or hair on any part of the body of a sheep, goat or other restricted animal exceeds 20 millimetres an inspector shall by notice in the form of Form 2 in the Schedule require the animal to be shorn unless he certifies in writing that he is satisfied no prohibited material is present.

*[Regulation 6 amended in Gazette 18 Oct 1991 p. 5325; 17 Dec 2010 p. 6411.]*

**7. Destruction or cleansing of certain animals or things**

- (1) Any animal or thing delivered into the custody of an inspector in accordance with section 74 of the Act shall be held for such

time as is necessary for inspection, shearing, cleansing or destruction.

- (2) Where any animal or thing is found to carry or contain any prohibited material and is detained in accordance with section 73 of the Act, an inspector may, by notice in the form of Form 2 in the Schedule, require the owner, consignor, consignee or person in possession or control of that animal or thing to destroy it or to cleanse it of prohibited material within the time specified in that notice.
- (3) A person who is unwilling to comply with the requirements of a notice to destroy or cleanse any animal or thing of prohibited material may instead —
  - (a) arrange with an inspector for its release on condition that it be exported from the State;
  - (b) within the time specified in that notice, return the animal or thing to a part of the State approved by an inspector; or
  - (c) enter into a contract with the Director General to have such destruction or cleansing carried out, for and at the expense of such person, at a charge determined by the Director General from time to time.

*[Regulation 7 amended in Gazette 17 Dec 2010 p. 6412.]*

**8. Failure to comply with notice to cleanse or destroy**

- (1) Where a notice given under regulation 7 is not complied with within the time specified, an inspector shall —
  - (a) cause the animal or thing to be cleansed of prohibited material and sold in accordance with regulation 11; or
  - (b) subject to the provisions of regulation 10, cause the animal or thing to be slaughtered or destroyed.
- (2) Where any animal is slaughtered under subregulation (1) an inspector shall cause the carcass to be sold for the best price that can reasonably be obtained.

*[Regulation 8 amended in Gazette 25 Feb 1983 p. 735.]*

**9. Baling of coat**

Where a coat is shorn under these regulations or is taken with the skin of any animal slaughtered under these regulations, the coat shall be baled and the bale shall be marked with an identifying mark and remain under the control of an inspector until exported, removed under his approval or destroyed.

**10. Destruction or slaughter for economic reasons**

- (1) If an inspector has reasonable grounds to believe that —
- (a) there is no apparent reason why an animal or thing should not be slaughtered or destroyed; and
  - (b) the costs and charges of and incidental to the cleansing of that animal or thing would be likely to exceed the net proceeds of the sale of it by the best reasonable means,

he may cause it to be slaughtered or destroyed and no compensation shall be payable.

- (2) In considering whether or not any course of action would be economic, or whether or not any animal or thing should be slaughtered or destroyed, an inspector shall have regard to —
- (a) the facilities and time available or required;
  - (b) the costs and charges of and incidental to the proposed course of action and any reasonable alternative procedure; and
  - (c) the intrinsic value of that animal or thing and the adequacy of its replacement by a cash value.

*[Regulation 10 amended in Gazette 25 Feb 1983 p. 735.]*

**11. Sale of animal or thing**

- (1) Where any animal or thing is to be sold under these regulations it shall normally be disposed of by public auction, but where in the usual course of trading a different method of disposal would be reasonable and not manifestly unfair to the owner an



inspector may take such action as he thinks fit to obtain the best practicable price.

- (2) After deduction by the Director General of all reasonable and necessary costs, charges and expenses, the balance of the proceeds of a sale made under these regulations shall be paid to the owner of the animal or thing sold and if the owner cannot be found shall be deposited with the Treasurer of the State.

*[Regulation 11 amended in Gazette 17 Dec 2010 p. 6412.]*

## **12. Charges and expenses**

- (1) The owner, consignor, consignee and person in possession shall be jointly and severally liable for the costs, charges and expenses incurred by an inspector under these regulations in respect of the cleansing, sale, destruction or treatment of any animal or thing, in addition to any penalty that may be imposed for breach of these regulations.
- (2) The amount of expenses for which a person is liable under these regulations shall be recoverable by the Director General on behalf of the State in a court of competent jurisdiction as a debt due to the State, and a certificate to that effect by the Director General is prima facie evidence that the amount is properly payable.

*[Regulation 12 amended in Gazette 17 Dec 2010 p. 6411-12.]*

**Schedule**

*[Form 1 deleted in Gazette 17 Dec 2010 p. 6412.]*

**Agriculture and Related Resources (Declared Plants and Restricted  
Animals) Regulations 1982  
Schedule**

**Form No. 2**

Western Australia

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

Agriculture and Related Resources (Declared Plants and Restricted Animals)  
Regulations 1982

Regulation 6

(a) Full name      To (a) Mr. ....  
(b) Address        of (b) .....  
                         being the \* owner/consignor/consignee/person in possession of the  
                         consignment described below, you are hereby notified that they have  
                         been detained by an inspector.  
Consignment .....  
Description .....  
Identification .....  
Number .....  
Origin .....  
Consignee .....  
                         Signed .....  
   Inspector  
                         Date .....

\* Delete whichever is inapplicable.

(c) & (d)        The above items have been found to —  
Delete if        (c) contain prohibited material, namely .....  
inapplicable    (d) have wool or hair in excess of 20 millimetres .....

DETENTION OF CONSIGNMENT

Stock

(e) Date        The above animals shall remain under the control of an inspector until  
(e) .....  
                         in which period they must be satisfactorily —

(f) Delete if        (f) { cleansed  
inapplicable        { shorn  
                              { destroyed

Signed .....  
   Inspector  
Date .....

Other Consignments.

**Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982**  
**Schedule**

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(g) Date                    The above consignment shall remain under the control of an inspector until (g) . . . . . in which period it must be satisfactorily cleansed or destroyed.

NOTE:

Any person unwilling to comply with the requirements of this notice may with the approval of an inspector export the consignment from the State or may return it to a part of the State approved by an inspector within the time specified in the notice.

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RELEASE OF CONSIGNMENT

The above consignment is  
\* free from declared plants and may enter Western Australia/  
(h) Specify                \* not free from declared plants and is to be exported from the State  
place                      or returned to (h) . . . . .  
                                    within Western Australia.

SIGNED . . . . .

Inspector

DATE . . . . .

\* Delete whichever is inapplicable.

*[Schedule amended in Gazette 3 Aug 1984 p. 2333; 18 Oct 1991 p. 5325-6; 17 Dec 2010 p. 6412.]*

### Notes

- <sup>1</sup> This is a compilation of the *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982* and includes the amendments made by the other written laws referred to in the following table <sup>2</sup>. The table also contains information about any reprint.

#### Compilation table

Citation	Gazettal	Commencement
<i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982</i>	29 Oct 1982 p. 4357-61	26 Nov 1982 (see r. 2)
<i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Amendment Regulations (No. 2) 1982</i>	7 Jan 1983 p. 35	7 Jan 1983
<i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Amendment Regulations 1982</i>	25 Feb 1983 p. 734-5	25 Feb 1983
<i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Amendment Regulations 1984</i>	3 Aug 1984 p. 2333	31 Aug 1984 (see r. 2)
<i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Amendment Regulations 1991</i>	18 Oct 1991 p. 5325-6	18 Oct 1991
<b>Reprint of the <i>Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982</i> as at 9 Nov 2001</b> (includes amendments listed above)		
<i>Agriculture and Related Resources Protection (Repeals and Amendments) Regulations 2010 Pt. 3</i>	17 Dec 2010 p. 6403-32	18 Dec 2010 (see r. 2(b) and <i>Gazette</i> 17 Dec 2010 p. 6349)
<b>These regulations were repealed by the <i>Biosecurity and Agriculture Management Regulations 2013</i> r. 137(a) as at 1 May 2013 (see r. 2(b) and <i>Gazette</i> 5 Feb 2013 p. 823)</b>		

<sup>2</sup> The *Biosecurity and Agriculture Management Regulations 2013* r. 138 and 139 read as follows:

**138. Fees and expenses**

On and from the commencement day —

- (a) any fees payable under a regulation repealed under regulation 137 and outstanding on the commencement day are to be regarded as payable under these regulations at the time, and in the manner, in which the fees would have been payable under the repealed regulation and may be recovered accordingly; and
- (b) any expenses recoverable under a regulation repealed under regulation 137 and outstanding on the commencement day may be recovered under regulation 128.

Penalty: a fine of \$10 000.

**139. *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982***

On and from the commencement day any notice given under the *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982* regulation 7(2) and of effect immediately before the commencement day has effect as if it were a direction given under section 77.

## **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>
inspector.....	4(1)
regulation.....	4(1)
Schedule.....	4(1)
subregulation.....	4(1)
the Act.....	4(1)