

Western Australia

**Agriculture and Related Resources Protection  
Act 1976**

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# **Agriculture and Related Resources Protection Act 1976**

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**Defined Terms**



Western Australia

## **Agriculture and Related Resources Protection Act 1976**

**An Act to provide for the management, control and prevention of certain plants and animals, for the prohibition and regulation of the introduction and spread of certain plants and of the introduction, spread and keeping of certain animals, for the protection of agriculture and related resources generally, and for incidental and other purposes.**

## **Part I — Preliminary**

### **1. Short title**

This Act may be cited as the *Agriculture and Related Resources Protection Act 1976*<sup>1</sup>.

### **2. Commencement**

The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation<sup>1</sup>.

[3, 4. Deleted by No. 24 of 2007 s. 27.]

[5. Deleted by No. 59 of 1986 s. 4.]

[6. Deleted by No. 46 of 2010 s. 5.]

### **7. Definitions and interpretation**

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

***animal*** means any living thing that is not a human being or a plant;

***authorised person*** means a person authorised by the Director General pursuant to section 11;

***category*** means a category mentioned in section 36(3) or (4);

***class***, in relation to plants or animals, means any group or grouping of plants or animals;

***Commissioner*** means the Commissioner of State Revenue;

***control***—

- (a) in relation to declared plants of a class assigned to category P2 or declared animals of a class assigned to category A2, means to destroy, prevent and eradicate those plants or animals or cause those plants or animals to be destroyed, prevented and eradicated;



- (b) in relation to declared plants of a class assigned to category P3, means —
  - (i) to destroy, prevent and eradicate those plants or cause those plants to be destroyed, prevented and eradicated; or
  - (ii) to control those plants by taking or causing to be taken such measures as are approved by an inspector or authorised person to reduce the numbers or distribution of those plants;
- (c) in relation to declared plants of a class assigned to category P4, means —
  - (i) to destroy, prevent and eradicate those plants or cause those plants to be destroyed, prevented and eradicated; or
  - (ii) to control those plants by taking or causing to be taken such measures as are approved by an inspector or authorised person to prevent the spread of those plants;
- (d) in relation to declared plants of category P5, means to take or cause to be taken such action in respect of those plants as is prescribed;
- (e) in relation to declared animals of category A5, means —
  - (i) to destroy, prevent and eradicate those animals or cause those animals to be destroyed, prevented and eradicated; or
  - (ii) to control those animals by taking or causing to be taken such measures as are approved by an inspector or authorised person to reduce and restrict the number of those animals;
- (f) in relation to declared animals of category A7, means to do or cause to be done such acts, matters and things for the management and regulation of the movement, numbers and distribution of those animals as are set out in a management programme having effect in the area of

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the State in which those animal are situated and applying to animals of that class,

and inflexions and derivatives have correlative meanings;

**declaration** means a declaration made by the Minister and published in the *Gazette* and the verb **to declare** and inflexions and derivatives have correlative meanings;

**declared animal** means an animal belonging to a class of animals declared under section 35 to be declared animals and includes —

- (a) such an animal of any kind or sex;
- (b) the egg or semen of such an animal; and
- (c) such an animal when in the larval stage or any other immature stage,

and, unless otherwise specified in a declaration under that section, includes any hybrid or cross derived from such an animal;

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

**declared plant** means a plant belonging to a class of plants declared under section 35 to be declared plants and includes —

- (a) any part of such a plant;
- (b) the product of such a plant;

**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;

**occupier**, in relation to land, means the person by whom or on whose behalf land is actually occupied, or, if there is no occupier, the person entitled to possession, and includes a

person in the unauthorised occupation of Crown land, and a person who, under a licence or concession relating to specified land vested in the Crown, has the right of taking a profit of the land, and *occupy* and inflexions and derivatives have, in relation to land, meanings correlative to “occupier”;

*owner*, in relation to land, means —

(a) (i) a person who is in possession of the land as —

(A) the holder of a legal or equitable estate of freehold in possession in the land, including an estate or interest under a contract or arrangement with the Crown or any other person by virtue of which the land is held or occupied with the right to acquire the fee simple by purchase or otherwise;

(B) a Crown lessee or a lessee or tenant under a lease or tenancy agreement;

(C) a mortgagee of the land;

(D) a trustee, attorney or authorised agent of such a holder, lessee, tenant or mortgagee;

or

(ii) where there is no such person in possession of the land the person who is entitled to possession in any of those capacities,

and, for the purposes of this paragraph, receipt of the rents and profits shall be regarded as possession;

(b) a person who —

(i) under a licence or concession relating to specific Crown land, has the right of taking a profit of the land;

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- (ii) is lawfully entitled to occupy the land which is vested in the Crown, and which has no other owner within the meaning of this definition;
- (iii) is in the actual occupation, with or without title, of the surface of the whole or portion of a mining tenement within the meaning of the *Mining Act 1904*<sup>2</sup>;
- (iv) has, without title, a tent, camp or other habitation on the land which is land belonging to another person;
- (v) is in the unauthorised occupation of the land which is Crown land,

and **own** and inflexions and derivatives have, in relation to land, meanings correlative to “owner”;

**pastoral lease** has the meaning ascribed to that term in and for the purposes of the *Land Administration Act 1997*;

**plant** means vegetation of any kind;

**prohibited material** —

- (a) in relation to the State generally, means a plant that is, for the time being, declared in respect of the whole of the State or any part of the State and includes any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which that plant is packed or associated;
- (b) in relation to a part of the State, that means a plant that is, for the time being, declared in respect of part of the State and includes any packet, parcel, packing material, seeds, soil, vegetable matter or other substance in or with which that plant is packed or associated;

**train** includes a railway locomotive, railway carriage and railway wagon;

**vehicle** has the meaning ascribed to that term in and for the purposes of the *Road Traffic Act 1974*;

***watercourse*** includes any waters, whether running or still, permanent or temporary, or natural or artificially constructed.

- (2) For the purposes of this Act —
- (a) a reference to a class of declared plants or class of declared animals of, or assigned to, a category identified by a letter and a numeral refers to a class of declared plants or class of declared animals assigned, by declaration under section 35, to the category so identified in section 36(3) or (4);
  - (b) a reference to a declared plant or declared animal of a category identified by a letter and a numeral refers to a declared plant or declared animal of a class of declared plants or declared animals, as the case may be, assigned by declaration under section 35 to the category so identified in section 36(3) or (4).
- (3) A declared plant or declared animal shall be deemed to be on land for the purposes of this Act notwithstanding that it is on or in any watercourse on that land or is, in the case of a declared animal, in the air above that land.

*[(4) deleted]*

*[Section 7 amended by No. 59 of 1986 s. 5; No. 14 of 1996 s. 4; No. 31 of 1997 s. 141; No. 45 of 2002 s. 7(2); No. 74 of 2003 s. 26; No. 55 of 2004 s. 24; No. 77 of 2006 s. 17; No. 24 of 2007 s. 27; No. 46 of 2010 s. 6 and 55.]*

## **Part II — Administration**

*[8, 9. Deleted by No. 46 of 2010 s. 7.]*

### **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.

*[Section 10 inserted by No. 46 of 2010 s. 8.]*

### **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 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.

*[Section 11A inserted by No. 46 of 2010 s. 8.]*

**11. Authorised persons**

- (1) The Director General may, from time to time, in writing, authorise persons to take all such measures and do all such things as are necessary or convenient for controlling, and preventing the introduction and spread, of declared plants and declared animals.
- (2) Every authorised person shall, if required to do so, produce his written authority to the owner or occupier of any land or premises he may enter pursuant to the powers conferred on him by this Act.

*[Section 11 amended by No. 46 of 2010 s. 9.]*

*[12. Deleted by No. 46 of 2010 s. 10.]*

*[Part III: s. 13-16 deleted by No. 46 of 2010 s. 11;  
s. 17 deleted by No. 9 of 1998 s. 3;  
s. 18-34A deleted by No. 46 of 2010 s. 11.]*

## **Part IV — Declaration of plants and animals**

### **35. Classes of plants and animals may be declared**

- (1) The Minister may, by declaration, declare —
  - (a) plants of a class specified in the declaration to be declared plants;
  - (b) animals of a class specified in the declaration to be declared animals.
- (2) A declaration under subsection (1) in relation to a class of plants or animals shall specify —
  - (a) whether those plants or animals are declared plants or declared animals, as the case may be, in respect of the whole of the State and every part of the State or only in respect of a part or parts of the State specified in the declaration;
  - (b) whether those plants or animals are declared generally or only in particular circumstances specified in the declaration; and
  - (c) the category or categories to which that class of declared plants or declared animals is assigned for the purposes of this Act.

*[Section 35 amended by No. 46 of 2010 s. 55(1).]*

### **36. Categories of declared plants and animals**

- (1) Subject to, and in accordance with, subsection (3) and (4), a class of declared plants or class of declared animals may, by declaration under section 35, be assigned to one or more categories for the purposes of this Act according to the measures that, in the opinion of the Minister, need to be taken in relation to declared plants or declared animals of that class in order to achieve the object of this Act.



- (2) A class of declared plants or class of declared animals may, by declaration under section 35, be assigned to different categories in respect of different parts of the State.
- (3) For the purposes of this Act a class of declared plants may be assigned to —
  - (a) category P1 in respect of an area if the introduction into and movement within that area of those plants should, in the opinion of the Minister, be prohibited;
  - (b) category P2 in respect of an area if those plants should, in the opinion of the Minister, be eradicated in that area;
  - (c) category P3 in respect of an area if the numbers or distribution, or both, of those plants should, in the opinion of the Minister, be reduced in that area;
  - (d) category P4 in respect of an area if those plants should, in the opinion of the Minister, be prevented from spreading beyond the places in which they occur in that area for the time being;
  - (e) category P5 in respect of an area, if, in the opinion of the Minister, particular action should be taken in relation to those plants on land in that area that is public land or land under the control of a local government.
- (4) For the purposes of this Act a class of declared animals may be assigned to —
  - (a) category A1 in respect of an area if the introduction of those animals into that area should, in the opinion of the Minister, be prohibited;
  - (b) category A2 in respect of an area if those animals —
    - (i) are not vertebrate animals native to that area; and
    - (ii) should, in the opinion of the Minister, be eradicated in that area;
  - (c) category A3 in respect of an area if the keeping of those animals in that area should, in the opinion of the Minister, be prohibited;

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- (d) category A4 in respect of an area if the introduction of those animals into that area should, in the opinion of the Minister, be subject to conditions and restrictions imposed by or under the regulations;
  - (e) category A5 in respect of an area if the numbers of those animals in that area should, in the opinion of the Minister, be reduced and kept under restriction;
  - (f) category A6 in respect of an area if the keeping of those animals in that area should, in the opinion of the Minister, be subject to conditions and restrictions imposed by or under the regulations;
  - (g) category A7 in respect of an area if those animals are native to that area and are animals for which a management programme should, in the opinion of the Minister, be approved and published by the Minister and implemented in and in relation to that area.
- (5) In subsections (3) and (4) *area* means the whole of the State or a part of the State.

*[Section 36 amended by No. 31 of 1983 s. 3; No. 14 of 1996 s. 4; No. 46 of 2010 s. 55(1).]*

**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.

*[Section 37 inserted by No. 46 of 2010 s. 12.]*

## **Part V — Control of declared plants and declared animals**

*[Divisions 1-4 (s. 38-56) deleted by No. 24 of 2007 s. 27.]*

### **Division 5 — Operational work**

*[Heading amended by No. 46 of 2010 s. 24.]*

#### **57. Interpretation**

In this Division *operational work* means the doing of such acts, matters and things as may be necessary for or conducive to the control of declared plants and declared animals.

#### **58. Operational work may be carried out**

(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.
- (2) An inspector or authorised person may enter any land for the purpose of exercising powers under this section.
- [Section 58 amended by No. 14 of 1996 s. 4; No. 6 of 2006 s. 4; No. 77 of 2006 s. 17; No. 46 of 2010 s. 25.]*

**59. Saving provisions**

- (1) The provisions of section 58 are in addition to and not in derogation of any other provision, whether of this Act or another Act, conferring power to control declared plants and declared animals.
- [(2) deleted]*
- [Section 59 amended by No. 24 of 2007 s. 27; No. 46 of 2010 s. 26.]*

**Division 6 — Rating and finance**

**60. Rates on pastoral leases**

- (1) This section applies to the financial year commencing on 1 July immediately following the coming into operation of the *Agriculture and Related Resources Protection Amendment Act 2010* section 27 and to each financial year thereafter.
- (2) Subject to and in accordance with the provisions of this Act, in respect of each financial year to which this section applies there shall be assessed, collected and paid on and in relation to all land held under pastoral lease rates at such rate as may be imposed under subsection (3) in respect of such land.
- (3) The Minister may, by notice published in the *Gazette* on or before the 30 June immediately preceding a financial year to which this section applies, impose in respect of that financial year rates in respect of land held under pastoral lease.

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- (4) A rate imposed under subsection (3) —
- (a) must be imposed upon the unimproved value of land to which the rate applies; and
  - (b) must not be at a rate exceeding 10 cents in the dollar of the unimproved value of land.
- (5) Different rates may be imposed in respect of different land and different classes of land.

*[(6) deleted]*

(7) Despite the amendments made by the *Agriculture and Related Resources Protection Amendment Act 2006*, this Act, as in force immediately before the day on which that Act comes into operation, continues to apply in relation to a rate payable for a financial year commencing before 1 July 2006.

(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).

*[Section 60 amended by No. 40 of 1978 s. 10; No. 22 of 1980 s. 3; No. 31 of 1983 s. 7; No. 6 of 2006 s. 5; No. 46 of 2010 s. 27.]*

*[61. Deleted by No. 46 of 2010 s. 28.]*

**62. Calculation of unimproved value**

*[(1) deleted]*

- (2) For the purposes of section 60, the unimproved value of land to which a rate imposed under that section applies is —
- (a) where the land is the whole of the land held under a pastoral lease, a sum equal to 20 times the amount of the relevant annual rent on that lease; or

- (b) where the land is only part of the land held under a pastoral lease, a sum calculated by use of the following formula —

$$\frac{A}{B} \times C \times 20 = D$$

where —

- A is the area of the land to which the rate applies;
- B is the area of the whole of the land held under that lease;
- C is the relevant annual rent on that lease; and
- D is the unimproved value of the land to which the rate applies.

*[(3)-(7) deleted]*

- (8) In relation to a rate imposed under section 60 in respect of the financial year commencing on the 1 July 1984 or any financial year thereafter the relevant annual rent on a pastoral lease is, for the purposes of this section, the annual rent payable in respect of that lease as at the 1 February immediately preceding the financial year in respect of which the rate applies.

*[Section 62 amended by No. 76 of 1981 s. 3; No. 31 of 1983 s. 8; No. 31 of 1997 s. 7; No. 46 of 2010 s. 29.]*

### **63. Assessment, payment and recovery**

- (1) Where a rate is imposed under section 60 in respect of a financial year the Commissioner shall assess the amount payable by way of rates under that section on and in relation to all land to which the rate applies and the rates so assessed are payable by the person who was the owner of the land at noon on the 30 June immediately preceding that financial year.

*[(2) deleted]*

- (3) Rates assessed under section 60 shall, subject to this Act, be due and payable 30 days after the service by post of a notice of assessment.

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- (3a) When rates assessed under section 60 are due and payable —
- (a) they are a debt due to the State and payable to the Commissioner;
  - (b) they may be sued for and recovered by the Commissioner suing on behalf of the State; and
  - (c) Part 6 Division 2 of the *Taxation Administration Act 2003* applies to and in relation to them as if they were land tax assessed by the Commissioner.
- (4) The Commissioner may, with the approval of the Minister, write off arrears of rates assessed and due on and in relation to land under section 60.
- [(5) *deleted*]
- (6) Notwithstanding anything contained in any other law, for the purposes of this Act the amount of rates treated as having been recovered by the Commissioner under section 60 in a financial year shall be the amount of the rates which becomes payable in that financial year under that section.

*[Section 63 amended by No. 22 of 1980 s. 4; No. 45 of 2002 s. 7(3); No. 6 of 2006 s. 7; No. 46 of 2010 s. 30.]*

**64. Postponement of payment of rates payable by pensioners**

- (1) Subject to subsection (5), a person who is a pensioner may claim to be exempt from liability for the payment of rates assessed under section 60 in respect of land of which he is in actual occupation as owner.
- (2) On receipt of the claim the Commissioner shall postpone the payment of the rates to which the claim relates until the person ceases to own the land or dies, whichever first occurs, or until the person ceases to be entitled to be exempt from liability for payment of rates assessed under section 60 in respect of the land.
- (3) Where the payment of any rates is postponed pursuant to subsection (2), nothing contained in the *Limitation Act 2005*



prevents the Commissioner from recovering the amount of any of those rates which but for this subsection he would have been prevented from so doing by that Act.

- (4) While the rates remain unpaid they are by force of this section a charge on the land ranking equally with any other charge on the land created by an Act and before any other charge on the land.
- (5) A person is not entitled to be exempt under this section from liability for payment of rates assessed under section 60 in respect of any land if —
- (a) the land is occupied by that person and a person who is neither a pensioner nor a dependant of the first-mentioned person; or
  - (b) the land is partly owned by that person and partly owned by a person who is neither a pensioner nor a dependant of the first-mentioned person.
- (6)(a) In this section the term *pensioner* means a pensioner as defined under the *National Health Act 1953* of the Parliament of the Commonwealth but does not include a person who comes within that definition by reason only that he is a person to whom or in respect of whom —
- (i) there is being paid a sheltered employment allowance under the *Social Services Act 1947* of the Parliament of the Commonwealth or that allowance would be payable if he were not receiving vocational training under Part VIII of that Act; or
  - (ii) there is being paid an allowance under the *Tuberculosis Act 1948* of the Parliament of the Commonwealth.
- (b) Any reference in this subsection to an Act of the Parliament of the Commonwealth includes any Act amending the Act or enacted in substitution for it.

[Section 64 amended by No. 20 of 2005 s. 23; No. 46 of 2010 s. 31.]

**65. Rates to be credited to Declared Pest Account**

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

*[(2) deleted]*

*(3)[(a) deleted]*

- (b) In each financial year a sum equal to the rates recovered by the Commissioner in that year under section 60 shall be appropriated from the Consolidated Account, without authority other than that of this subsection, and credited to the Declared Pest Account.

- (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.

*[Section 65 amended by No. 40 of 1978 s. 11; No. 22 of 1980 s. 5; No. 31 of 1983 s. 9; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 28 of 2006 s. 9; No. 77 of 2006 s. 4 and 17; No. 46 of 2010 s. 32.]*

*[Divisions 7 and 8 (s. 66-70) deleted by No. 24 of 2007 s. 27.]*

*[Part VI (s. 71-83) deleted by No. 24 of 2007 s. 27.]*

**Part VIA — Protection of agriculture and related resources from agricultural chemicals**

**83A. Protection from agricultural chemicals**

- (1) The object of this section is to protect agriculture and related resources, from danger or detriment likely to result from the storage, use, or transport of prescribed agricultural chemicals.
- (2) A person shall not in any prescribed part of the State store, use, or transport a prescribed agricultural chemical in a manner which does not conform to the regulations.

Penalty: a fine of \$50 000.

*[(3)-(6) deleted]*

*[Section 83A inserted by No. 55 of 1979 s. 7; amended by No. 20 of 1989 s. 3; No. 46 of 2010 s. 42 and 56.]*

## **Part VII — General**

### **Division 1 — Powers of inspectors and authorised persons**

#### **84. Power of entry**

- (1) An inspector or authorised person may, at any time, by virtue of an without warrant than the provisions of this Act enter upon land and into any premises on land, not being a dwelling house or a hut, tent, caravan or other erection used as a permanent residence, in order to —
- (a) make a search to ascertain —
    - (i) whether declared plants or declared animals are in or upon the land or premises and, if so, whether those declared plants or declared animals are being controlled as required by this Act;
    - [(ii) *deleted*]
    - (iii) whether there is any declared plant or prohibited material in or upon the land or premises that has been introduced contrary to this Act;
    - (iv) whether there is any declared animal in or upon the land or premises that has been introduced or is being kept contrary to this Act; or
    - (v) whether any chemical is being or has been stored or used upon the land or in the premises contrary to this Act;
  - (b) patrol and inspect any fence on or bounding that land.
- (2) If it appears to a justice, on an application supported by evidence on oath or affirmation by an inspector or authorised person, that there are reasonable grounds for suspecting that there is in any of the premises excepted under subsection (1) —
- (a) any declared plant or declared animal that is required by this Act to be controlled;

- (b) any declared plant or prohibited material that has been introduced contrary to this Act;
- (c) any declared animal that has been introduced or is being kept contrary to this Act;
- (d) any chemical that is being stored or has been used contrary to this Act,

the justice may grant a warrant authorising the inspector or authorised person to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, for the purpose of searching the premises and taking such action in relation to any declared plant or declared animal or chemical found in the premises as is prescribed.

- (3) Where an inspector or authorised person enters upon or searches the enclosed garden or curtilage of a dwelling house the owner or occupier of that dwelling house may apply to the Magistrates Court for a review of the exercise of that power on the grounds there were no reasonable grounds for its exercise and the court shall inquire into the matter and make its findings known to the applicant and the Minister.
- (4) An inspector or authorised person who has entered and searched land or premises, or both, under this section or under a warrant granted under this section shall draw up and sign a report of the result of the entry and search and shall furnish that report to the Director General.
- (5) This section is in addition to, and not in derogation of, any other provision of this Act under which an inspector or authorised person is authorised to enter land or premises for the purpose of exercising any power or performing any duty or function.

- (6) Where, under the provisions of this Act or of a warrant granted under this Act, an inspector or authorised person is authorised to enter land, or premises on land, for any purpose —
- (a) he may, with or without assistants or contractors, enter and remain on that land or in those premises for such period as is reasonable for carrying out that purpose; and
  - (b) he shall have for himself and those assistants or contractors such rights of ingress, egress and regress into, over and across that land for that period with such vehicles, instruments, appliances and materials as are reasonable for carrying out that purpose.

*[Section 84 amended by No. 22 of 1980 s. 6; No. 84 of 2004 s. 80; No. 24 of 2007 s. 27; No. 46 of 2010 s. 55(2).]*

**85. Power to search conveyances, etc.**

- (1) An inspector or authorised person may at any time search and inspect any vehicle, vessel, aircraft or train in order to ascertain if —
- (a) any declared plant, declared animal or prohibited material is on or in that vehicle, vessel, aircraft or train;
  - [(b) deleted]*
  - (c) any chemical is being transported on or in that vehicle, vessel, aircraft or train contrary to section 83A.
- (2) An inspector or authorised person may take possession of any declared plant or declared animal or prohibited material found in the course of a search and inspection under subsection (1).
- (3) For the purpose of exercising his powers under this section an inspector or authorised person —
- (a) may stop any vehicle or vessel;
  - (b) may, with or without assistants, enter into or upon any vehicle, vessel, aircraft or train and search and inspect every part of it and everything on or in it.

- (4) A person who, being in charge of a vehicle or vessel, fails to stop the vehicle or vessel when so required by a person who makes himself known as being an inspector or authorised person, commits an offence.

Penalty: a fine of \$20 000.

- (5) This section is in addition to, and not in derogation of, any other provision of this Act under which an inspector or authorised person is authorised to search for, take possession of, detain or destroy or cause the destruction of any plant, animal or prohibited material.

*[Section 85 amended by No. 22 of 1980 s. 7; No. 20 of 1989 s. 3; No. 24 of 2007 s. 27; No. 46 of 2010 s. 56.]*

**86. Name and address may be required**

An inspector or authorised person acting in the exercise or performance of his powers, duties or functions under this Act may —

- (a) require any person to state his name and address;
- (b) require any occupier of land to state, to the best his knowledge, information and belief, the name and address of the owner of that land.

**87. Obstruction, etc.**

Any person who —

- (a) without lawful excuse, wilfully obstructs, hinders or resists an inspector or authorised person in the exercise or performance of his powers, duties or functions under this Act;
- (b) without lawful excuse, refuses or wilfully fails to comply with any lawful requirement of an inspector or authorised person under this Act;
- (c) wilfully makes any false statement to or misleads, or attempts to mislead an inspector or authorised person in

the exercise or performance of his powers, duties or functions under this Act; or

- (d) assaults or uses abusive language to an inspector or authorised person, or a person assisting an inspector or authorised person,

commits an offence.

Penalty: a fine of \$20 000.

*[Section 87 amended by No. 59 of 1986 s. 7; No. 20 of 1989 s. 3; No. 46 of 2010 s. 56.]*

**88. Personating officers**

Any person who falsely represents himself to be, or personates, an inspector or authorised person commits an offence.

Penalty: a fine of \$20 000.

*[Section 88 amended by No. 20 of 1989 s. 3; No. 46 of 2010 s. 56.]*

**Division 2 — Agents, mortgagees and trustees**

**89. Attorneys and agents to represent principal**

- (1) An attorney or agent of an owner who is absent from the State, shall be deemed to represent his principal for the purposes of this Act, so far as regards land which the attorney or agent is authorised to manage, or of which he is authorised to hold possession, or the rents and profits of which he is authorised to collect on behalf of the owner.
- (2) Service on such a representative of the owner of land of —
  - (a) a notice required or authorised to be served on the owner;
  - (b) a summons or legal process for the recovery of money payable by the owner in respect of the land, pursuant to the provisions of this Act,



shall be regarded as effective service on the owner.

**90. Powers of trustees**

A trustee who is an owner of land in accordance with the definition “owner” in section 7 may apply any of the funds under his control as trustee, for the owner of the land, in defraying charges, costs and expenses necessarily or properly incurred by him pursuant to, or by virtue of, the provisions of this Act in that capacity.

**91. Mortgagees**

Where a mortgagee of land, pursuant to any obligation imposed on him by this Act, has paid an amount of money which otherwise would have been payable by the mortgagor, he may add the amount paid to the debt, the subject of the mortgage.

**Division 3 — Procedure**

**92. Manner in which notices may be served**

- (1) Service of a notice, the giving of which is authorised or required pursuant to the provisions of this Act may be effected —
  - (a) by delivering it personally to the person upon whom it is to be served;
  - (b) by leaving it for him at his usual or last known place of abode or business;
  - (c) by forwarding it by post in a prepaid letter, or transmitting it by telegram addressed to his last known place of abode or business, or to his last known postal address, or to the address (if any) shown in the rate record kept by a local government pursuant to the *Local Government Act 1995* as his address for the service of rate notices under that Act; or
  - (d) where an address for service pursuant to paragraph (b) or (c) cannot be discovered by the person giving the notice, by advertising the notice at least twice in a

newspaper circulating in the district in which the land to which the notice relates is situated, an interval of at least a week being allowed to elapse between the advertisements,

and shall be regarded as effective whether the notice comes or does not come to the hands or knowledge of the person for whom it is intended.

- (2) A notice may be served on a body corporate by delivering it, leaving it, posting it in a prepaid letter, or transmitting it by telegram, the notice being addressed in each case to the body corporate at its principal or any known place of business.
- (3) A notice may be served on all the members of a partnership or unincorporated body by delivering it, leaving it, posting it in a prepaid letter, or transmitting it by telegram, the notice being addressed in each case to the partnership or body at its principal or any known place of business.
- (4) When a person on whom it is desired to serve a notice relating to land, is not within the State and has no attorney authorised, by power of attorney filed and noted under the *Transfer of Land Act 1893* or enrolled under the *Registration of Deeds Act 1856*, to represent him for the purposes of this Act in respect to the land, then the notice shall be deemed to have been effectively served on the owner if —
  - (a) it has been affixed or displayed on or over a conspicuous part of the land, and left so affixed or displayed for at least 14 days; and
  - (b) a copy of the notice has been posted to the person appearing to be the owner on search made in a register or other records referred to in section 94(1)(b), addressed to him at his place of abode or business, as disclosed by the search.
- (5) Any notice required by this Act to be given to the occupier or owner, as the case may be, of any land, shall in cases where several persons are the occupiers or owners thereof be duly

given if given to one of such occupiers or owners with the addition of the words “and another” or “and others” as the case requires.

- (6) Where an occupier of land, who is not the owner of the land, is served with a notice, he shall inform the owner of the fact as soon as practicable after being served.  
Penalty: a fine of \$20 000.
- (7) Non-service on the owner shall not affect the validity of service on the occupier, nor shall non-service on the occupier affect the validity of service on the owner.
- (8) A notice by this Act required to be given to the owner or occupier of any land, may, if the name of the owner or occupier is not known, be addressed to him by the description of the “owner” or “occupier” of the land, describing it, in respect of which the notice is given, without further name or description.
- (9) All notices authorised or required under this Act to be served on any owner or occupier shall, if service has been made on any owner or occupier, be binding on every subsequent owner or occupier to the same extent as if such notice had been served on each subsequent owner or occupier.
- (10) In a notice a description of the land affected by it shall be sufficient if the description allows of no reasonable doubt as to the land affected, notwithstanding that the description does not particularly define the land.
- (11) In the case of service by post or by telegram, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, in the ordinary course, the letter or telegram would be delivered.
- (12) The provisions of this section shall be in addition to, and not in derogation of, any other provision of this Act relating to the service of notices and those of section 31 of the *Interpretation Act 1918*<sup>7</sup>.

*[Section 92 amended by No. 59 of 1986 s. 7; No. 20 of 1989 s. 20; No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(2); No. 60 of 2006 s. 121(2); No. 46 of 2010 s. 56.]*

**93. Proof of documents and service**

- (1) For the purposes of this section **document** means a requisition, notice, order, demand or summons or other process under the *Criminal Procedure Act 2004* issued or made for any of the purposes of this Act and **serve** includes deliver, give and send.
- (2) In all proceedings in which a document has to be proved, the accused shall be deemed to have received notice to produce it, and until the contrary is shown, the document and its effective service may be sufficiently proved by or on behalf of the prosecutor, by the production of what purports to be a copy, bearing what purports to be a certificate, signed by a person authorised to issue the original, that the copy is a true copy of the original, and that the original was served on the date specified in the certificate.
- (3) The validity of any document or of the effective service of it shall not be affected by any error, misdescription or irregularity which does not mislead or which is not likely to mislead.

*[Section 93 amended by No. 59 of 2004 s. 141; No. 84 of 2004 s. 78, 80 and 82.]*

**94. Proof of ownership or occupancy**

- (1) In proceedings brought pursuant to the provisions of this Act, in addition to other methods of proof available —
  - (a) evidence that the person proceeded against is rated under the *Local Government Act 1995* as owner of land; or
  - (b) evidence by the certificate of —
    - (i) the Registrar of Titles, or an Assistant Registrar of Titles, that any person's name appears in the Register under the *Transfer of Land Act 1893*, as owner of land;

- (ii) the Registrar of Deeds and Transfers, or his substitute, or an Assistant Registrar of Deeds and Transfers, that a person appears from a memorial of registration of a deed, conveyance or other instrument, to be the owner of land;
- (iii) the chief executive officer of the department principally assisting in the administration of the *Land Administration Act 1997* that a person is registered in that department as the owner or occupier of land;
- (iiia) the chief executive officer of the department principally assisting in the administration of the *Mining Act 1978* that a person is registered in that department as the owner or occupier of land;
- (iv) the CEO as defined in section 3 of the *Conservation and Land Management Act 1984*, that any person is registered as the holder of a permit, licence or lease under Part VIII of that Act,

shall until the contrary is proved, be evidence that such person is the owner or occupier, as the case may be, of the land.

- (2) All courts and all person having by law, or by consent of parties, authority to hear, receive and examine evidence, shall, for the purposes of this Act, take judicial notice of the signature attached to a certificate referred to in of subsection (1)(b).
- (3) The averment in a claim, prosecution notice or other document in proceedings instituted for the purposes of this Act, that a person is or was at any time, the owner or occupier of land, shall be deemed to be proved in the absence of proof to the contrary.

*[Section 94 amended by No. 112 of 1984 s. 25; No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 84 of 2004 s. 80; No. 28 of 2006 s. 10; No. 60 of 2006 s. 121(3).]*

**94A.    Proof of plant or animal**

In any proceedings for an offence against this Act a certificate signed or purporting to be signed by or on behalf of the Director General stating that the plant or animal in relation to which the proceedings are brought is a plant or animal of the kind specified in the certificate shall, until the contrary is proved, be sufficient evidence that the plant or animal is of the kind so specified.

*[Section 94A inserted by No. 55 of 1979 s. 8; amended by No. 31 of 1983 s. 15; No. 46 of 2010 s. 43.]*

**95.     Judicial notice of signatures**

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

*[Section 95 inserted by No. 46 of 2010 s. 44.]*

**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.

*[Section 96 inserted by No. 46 of 2010 s. 44.]*

**97.     Evidentiary provisions**

- (1) In any proceedings to recover the amount of any costs, charges, or expenses recoverable by the State under this Act, it shall be sufficient to produce the certificate of the Minister or the Director General, and such certificate shall be *prima facie* evidence that such costs, charges and expenses were actually and lawfully incurred by a person authorised by the Minister or the Director General in that behalf, and the onus of disproving the amount shall be upon the defendant.
- (2) In any proceedings under this Act a report drawn up and signed by an inspector or authorised person pursuant to section 84(4) shall be *prima facie* evidence of the matters stated in that report.

*[Section 97 amended by No. 46 of 2010 s. 45.]*

**98. Prosecutions**

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

*[Section 98 inserted by No. 46 of 2010 s. 46.]*

**Division 4 — Miscellaneous**

**99. Variation or cancellation of declarations**

Where the Minister has made a declaration pursuant to the power conferred by this Act or any other Act, the Minister may, by subsequent declaration, —

- (a) vary the provisions and operation of the earlier declaration;
- (b) cancel the provisions and operation of the earlier declaration wholly or in part absolutely; or
- (c) cancel the provisions and operation of the earlier declaration wholly or in part and substitute other provisions and their operation for those so cancelled.

*[Section 99 amended by No. 46 of 2010 s. 47 and 55(1).]*

**100. Indemnity to persons acting in execution of powers conferred by Act**

A person shall not —

- (a) be regarded as a trespasser by reason of anything done by him in the course of the execution of any powers vested in him under or pursuant to this Act or an agreement made under this Act; or
- (b) be liable for any damage occasioned by him in the course of the exercise of those powers unless such damage is occasioned otherwise than in the reasonable exercise of those powers.

*[101. Deleted by No. 20 of 1989 s. 3.]*

**102. Offences to be dealt with by magistrate**

A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.

*[Section 102 inserted by No. 59 of 2004 s. 141.]*



## **Part VIII — Regulations**

### **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.

*[Section 103 inserted by No. 46 of 2010 s. 48.]*

### **104. Regulations — general**

Without limiting the generality of section 103 the Governor may make regulations —

*[(a)-(d) deleted]*

- (e) with respect to the manner of applying for any permit under this Act or any variation or renewal of such a permit;
- (f) prescribing forms for use under this Act;
- (g) prescribing rates of interest payable under this Act on debts due to the State.

*[Section 104 amended by No. 14 of 1996 s. 4; No. 46 of 2010 s. 49.]*

### **105. Regulations — declared plants and declared animals**

Without limiting the generality of section 103 the Governor may make regulations —

- (a) with respect to —
  - (i) measures, whether mechanical, biological, chemical or otherwise, to be taken and things to be done with respect to the control of declared plants and declared animals;
  - (ii) dissemination of information and the giving of directions relating to the measures, things and action referred to in subparagraph (i);

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- (iii) the time at which or the period within which, those measures or that action shall be taken, those directions shall be complied with and those things shall be done;
  - (iv) enforcement of the taking of those measures or that action, compliance with those directions or the doing of those things;
- (b) with respect to the use of appliances and materials for controlling declared plants and declared animals and the manner of mixing materials;
- (c) prohibiting or regulating the use of any particular chemical or spray in or for the control of declared plants or declared animals, or for the destruction of other plants or animals, whether that chemical or spray is applied by aircraft or by any other means, at any time, or during particular periods or in relation to any area or boundary specified in the regulations;
- [(d)-(r) *deleted*]
- (s) with respect to the prevention of the introduction into the State, or into any part of the State from some other part of the State, of any prohibited material and the control and prevention of the introduction and spread of declared plants generally, and without limiting the generality of the foregoing —
  - (i) providing for the shearing or clipping of wool or other animal coats known or likely to be carrying the seeds of declared plants;
  - (ii) providing for the inspection, detention, cleansing treatment and disposal by release, export from the State, sale, destruction or other means, of animals or things found or likely to carry or contain prohibited material or declared plants;

- (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;
- (iv) prescribing fees for the issue of permits under regulations made pursuant to this paragraph and fees for carrying out inspections for the purpose of determining whether any such permits should issue, and providing for the recovery of such fees;
- (t) imposing conditions and restrictions on —
  - (i) the introduction into the State from elsewhere of animals that are declared animals of category A4 in respect of the whole of the State;
  - (ii) the introduction into a part of the State from another part of the State, or from elsewhere, of animals that are declared animals of category A4 in respect of the first-mentioned part of the State;
  - (iii) the keeping, sale or disposal in a part of the State of animals that are declared animals of category A6 in respect of that part of the State, authorising the 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 sees fit to specify in the permit, prescribing fees for the issue of such permits and fees for carrying out inspections for the purpose of determining whether, or the conditions and restrictions subject to which, any such permit should issue, and providing for the recovery of such fees;

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*[(u),(v) deleted]*

- (w) preventing interference with experiments conducted by or on behalf of the department on or in relation to declared plants or declared animals and, without limiting the generality of the foregoing, —
  - (i) prohibiting or regulating entry to a location or reserve on which such experiments are being conducted;
  - (ii) prohibiting the trapping, catching or killing of declared animals on any location or reserve on which such experiments are being conducted on or in relation to declared animals of that class;
- (x) with respect to the circumstances and manner in which bonuses for the destruction of declared animals may be claimed and paid and to the prevention of fraudulent or other improper practices in respect of such bonuses.

*[Section 105 amended by No. 40 of 1978 s. 13; No. 55 of 1979 s. 9; No. 22 of 1980 s. 8; No. 31 of 1983 s. 16; No. 24 of 2007 s. 27; No. 46 of 2010 s. 50.]*

*[106. Deleted by No. 24 of 2007 s. 27.]*

**106A. Regulations — storage, use and transport of prescribed chemicals**

- (1) Without limiting the generality of section 103 the Governor may, for the protection of agriculture and related resources, make regulations with respect to the storage, use, and transport of prescribed agricultural chemicals.
- (2) Regulations may authorise the taking of samples of chemicals, the seizure and removal of chemicals and the giving of directions for the removal of chemicals.

*[Section 106A inserted by No. 55 of 1979 s. 10; amended by No. 22 of 1980 s. 9.]*

**107. General provisions as to regulations**

- (1) Regulations may be made under this Act —
- (a) so as to apply —
    - (i) generally or to any specified class or classes of case or subject-matter;
    - (ii) at all times or at any specified time or times;
    - (iii) throughout the State or in any specified part or parts of the State;
  - (b) so that different regulations apply to different areas, or different classes of persons, or different classes or categories of declared plants or declared animals, or in different circumstances, or so that regulations apply differently according to such factors as may be specified;
  - (c) so as to require a matter affected by them to be —
    - (i) in accordance with a specified standard or specified requirement; or
    - (ii) as approved by, or to the satisfaction of, a specified person or body, or a specified class of person or body;
  - (d) so as to confer on or delegate to a specified person or body, or a specified class of person or body, a discretionary authority;
  - (e) so as to provide that, in specified cases or a specified class of case or specified classes of cases, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified;
  - (f) so as to require any matter or thing to be verified by statutory declaration.
- (2) In subsection (1) *specified* means specified in the regulations.

**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.

*[Section 108 inserted by No. 46 of 2010 s. 52.]*

*[Part IX (s. 109-112) deleted by No. 24 of 2007 s. 27.]*

*[Part X (s. 113-119) deleted by No. 46 of 2010 s. 53.]*

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

*[Heading inserted by No. 46 of 2010 s. 54.]*

**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*.

*[Section 120 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 121 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 122 inserted by No. 46 of 2010 s. 54.]*

**123. Declarations**

A declaration made by the Protection Board under this Act as in force before the commencement day and in effect immediately

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before that day has effect on and after that day as if it were a declaration of the Minister.

*[Section 123 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 124 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 125 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 126 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 127 inserted by No. 46 of 2010 s. 54.]*

**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

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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.

*[Section 128 inserted by No. 46 of 2010 s. 54.]*

**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.

*[Section 129 inserted by No. 46 of 2010 s. 54.]*

*[Schedule deleted by No. 6 of 2006 s. 8.]*

## Notes

- <sup>1</sup> This is a compilation of the *Agriculture and Related Resources Protection Act 1976* and includes the amendments made by the other written laws referred to in the following table <sup>1a, 15, 18</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Agriculture and Related Resources Protection Act 1976</i>	42 of 1976	9 Jun 1976	Long title and s. 1-5, 7 and Pt. V Div. 6: 18 Jun 1976 (see s. 2 and <i>Gazette</i> 18 Jun 1976 p. 2048); balance: 1 Jul 1976 (see s. 2 and <i>Gazette</i> 18 Jun 1976 p. 2048)
<i>Agriculture and Related Resources Protection Act Amendment Act 1978</i>	40 of 1978	29 Aug 1978	29 Aug 1978
<i>Agriculture and Related Resources Protection Act Amendment Act 1979</i>	55 of 1979	12 Nov 1979	s. 3, 4(b), 7, 10 and 11: 1 Jul 1976 (see s. 2(1)); balance: 12 Nov 1979 (see s. 2(2))
<i>Agriculture and Related Resources Protection Amendment Act 1980</i>	22 of 1980	15 Oct 1980	s. 5: 1 Jul 1980 (see s. 2(2)); balance: 15 Oct 1980 (see s. 2(1))
<b>Reprint of the <i>Agriculture and Related Resources Protection Act 1976</i> approved 10 Feb 1981</b> (includes amendments listed above)			
<i>Agriculture and Related Resources Protection Amendment Act 1981</i>	76 of 1981	9 Nov 1981	Act other than s. 3(d): 1 Jul 1976 (see s. 2(1)); s. 3(d): 9 Nov 1981 (see s. 2(3))
<i>Agriculture and Related Resources Protection Amendment Act 1983</i>	31 of 1983	1 Dec 1983	29 Dec 1983 (see s. 2)
<i>Acts Amendment (Conservation and Land Management) Act 1984</i> Pt. V	112 of 1984	19 Dec 1984	22 Mar 1985 (see s. 2 and <i>Gazette</i> 15 Mar 1985 p. 931)
<i>Agriculture and Related Resources Protection Amendment Act 1986</i> <sup>11</sup>	59 of 1986	26 Nov 1986	5 Jan 1987 (see s. 2 and <i>Gazette</i> 19 Dec 1986 p. 4860)

**Agriculture and Related Resources Protection Act 1976**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<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)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(1)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Industrial Legislation Amendment Act 1995 s. 35</i>	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Transfer of Land Amendment Act 1996 s. 153(1) and (2)</i>	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997 Pt. 5 and s. 141</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Agricultural Legislation Amendment and Repeal Act 1998 Pt. 2</i>	9 of 1998	30 Apr 1998	4 Jul 1998 (see s. 2 and <i>Gazette</i> 3 Jul 1998 p. 3581)
<b>Reprint of the Agriculture and Related Resources Protection Act 1976 as at 15 Oct 1999</b> (includes amendments listed above)			
<i>Taxation Administration (Consequential Provisions) Act 2002 s. 7<sup>12</sup></i>	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 26</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141<sup>15</sup></i>	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)

## **Agriculture and Related Resources Protection Act 1976**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 6</i> <sup>13</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Limitation Legislation Amendment and Repeal Act 2005 Pt. 10</i>	20 of 2005	15 Nov 2005	15 Nov 2005 (see s. 2)
<i>Agriculture and Related Resources Protection Amendment Act 2006</i>	6 of 2006	12 Apr 2006	12 Apr 2006 (see s. 2)
<b>Reprint 3: The Agriculture and Related Resources Protection Act 1976 as at 16 Jun 2006</b> (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 2 Div 2</i> <sup>16</sup>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Land Information Authority Act 2006 s. 121</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 27</i> <sup>17</sup>	24 of 2007	12 Oct 2007	23 Nov 2011 (see s. 2(2) and <i>Gazette</i> 22 Nov 2011 p. 4843) <sup>17</sup> ; 1 May 2013 (see s. 2(2) and <i>Gazette</i> 5 Feb 2013 p. 824) <sup>21</sup>
<i>Agriculture and Related Resources Protection Amendment Act 2010 Pt. 2</i>	46 of 2010	28 Oct 2010	18 Dec 2010 (see s. 2(b) and <i>Gazette</i> 17 Dec 2010 p. 6349)

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

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 27 <sup>14</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Road Traffic Legislation Amendment Act 2012</i> Pt. 4 Div. 1 <sup>19</sup>	8 of 2012	21 May 2012	Operative on commencement of the <i>Road Traffic (Administration) Act 2008</i> (see s. 2(d))
<i>Commercial Arbitration Act 2012</i> s. 45 it. 1 <sup>20</sup>	23 of 2012	29 Aug 2012	To be proclaimed (see s. 1B(b))

<sup>2</sup> Repealed by the *Mining Act 1978*.

<sup>3</sup> Repealed by the *Public Service Appeal Board Act Repeal Act 1977*.

<sup>4</sup> The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26. See also endnote 14.

<sup>5,6</sup> No longer applicable.

<sup>7</sup> Repealed by the *Interpretation Act 1984*.

<sup>8</sup> Repealed by the *Commercial Arbitration Act 1985*.

<sup>9</sup> Repealed by section 6 of this Act.

<sup>10</sup> Now see the *Local Government Act 1995*.

<sup>11</sup> The *Agricultural and Related Resources Protection Amendment Act 1986* s. 8 is a transitional provision that is of no further effect.

<sup>12</sup> The *Taxation Administration (Consequential Provisions) Act 2002* s. 3, 4 and Pt. 4 read as follows:

“

**3. Relationship with other Acts**

The *Taxation Administration Act 2003* is to be read with this Act as if they formed a single Act.

**4. Meaning of terms used in this Act**

The Glossary at the end of the *Taxation Administration Act 2003* defines or affects the meaning of some of the words and

expressions used in this Act and also affects the operation of other provisions.

## **Part 4 — Transitional provisions**

### **Division 1 — Interpretation**

#### **33. Definitions**

In this Part —

**commencement day** means the day on which the *Taxation Administration Act 2003* comes into operation;

**old Act** means —

- (a) an Act repealed by section 5;
- (b) the old Stamp Act; or
- (c) section 41 of the *Metropolitan Region Town Planning Scheme Act 1959* as in force immediately before the commencement day;

**old Stamp Act** means the *Stamp Act 1921* as in force immediately before the commencement day;

**substantive provisions**, in relation to an old Act, means the provisions of the old Act other than those dealing with matters dealt with in the *Taxation Administration Act 2003*.

### **Division 2 — General transitional provisions**

#### **34. General transitional arrangements**

- (1) Section 37(1) of the *Interpretation Act 1984*, except paragraphs (a) and (b), does not apply in relation to the repeal of an old Act.
- (2) The repeal of an old Act does not, unless the contrary intention appears —
  - (a) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
  - (b) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
  - (c) subject to section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against the old Act; or
  - (d) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture.



- (3) Subject to subsections (4) and (5) —
- (a) a right, interest, title, power, privilege, duty, obligation, liability or burden of proof referred to in subsection (2)(a) or (b) may be exercised or enforced;
  - (b) a penalty or forfeiture referred to in subsection (2)(c) may be imposed and enforced; and
  - (c) an investigation, legal proceeding or remedy referred to in subsection (2)(d) may be instituted, continued, or enforced,
- as if the substantive provisions of the relevant old Act —
- (d) had not been repealed;
  - (e) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
  - (f) had been amended to make any modifications necessary for this section to have effect.
- (4) If an objection, appeal or other legal proceeding (the “**action**”) was instituted under an old Act and was not finally determined before the commencement day —
- (a) the action may be continued;
  - (b) any requirement to pay interest on an amount of tax determined in the action to have been overpaid applies and may be enforced;
  - (c) any penalty may be imposed and enforced; and
  - (d) any decision, order or determination made in the action has effect, and may be enforced,
- as if this Act and the taxation Acts had not commenced.
- (5) If the time limited by an old Act for doing anything is longer than the time limited by a taxation Act for doing the equivalent thing under that Act, then in relation to a matter to which subsection (3) applies, the time limited under the old Act applies in relation to the doing of the thing under the taxation Act.
- (6) If the time limited by an old Act for commencing proceedings in relation to an offence under that Act is shorter than the 5 year period limited by section 111 of the *Taxation Administration Act 2003*, then despite section 111, proceedings in relation to an offence under the old Act (including an offence under a provision of the old Act that is continued in force under this Part) cannot be commenced after the expiry of the shorter period provided for by the old Act.

- (7) In this section a reference, in relation to the *Stamp Act 1921*, to the repeal of the old Act is a reference to the amendment of the Act by the *Stamp Amendment Act 2003*.

**35. Commissioner not to increase tax liability**

Despite Part 3 Division 1 of the *Taxation Administration Act 2003*, the Commissioner must not make a reassessment that increases the amount of tax a person is liable to pay in relation to anything that happened before the commencement day if the reassessment could not have been made under the relevant old Act.

**36. Delegations**

A delegation made under an old Act and in force immediately before the commencement day continues in force on and after that day as a delegation made under section 10 of the *Taxation Administration Act 2003*.

**Division 3 — Debits tax**

**37. Certificates of exemption from tax (*Debits Tax Assessment Act 1990*, s. 11)**

- (1) A certificate issued under section 11 of the *Debits Tax Assessment Act 1990* and in force immediately before the commencement day continues in force on and after that day as a certificate issued under section 10 of the *Debits Tax Assessment Act 2002*.
- (2) Where section 13(1) of the *Debits Tax Assessment Act 2002* applies in relation to a certificate issued under section 11 of the *Debits Tax Assessment Act 1990* the Commissioner cannot make a reassessment of the amount of debits tax payable on a debit for the purpose of giving effect to that section more than 3 years after —
- (a) if the financial institution has recovered the amount of the debits tax paid on the debit from the customer — the date on which that amount was recovered; or
  - (b) otherwise — the date on which the debits tax on the debits was paid.

**Division 4 — Land tax**

**38. Exemptions for certain home unit owners (*Land Tax Assessment Act 1976*, s. 19)**

If the amount of land tax payable on land for the financial year commencing on 1 July 2001 was assessed under section 19 of the *Land Tax Assessment Act 1976*, then on and after the commencement day section 16 of the *Land Tax Assessment Act 2002* applies in relation to that land as if that assessment had been made under section 16.

**39. Inner city residential property rebate (*Land Tax Assessment Act 1976, s. 23AB*)**

A notice given by the Commissioner under section 23AB(7) of the *Land Tax Assessment Act 1976* and in force immediately before the commencement day continues in force on and after that day as a notice under section 28(4) of the *Land Tax Assessment Act 2002*.

**40. Land tax relief Acts**

Despite —

- (a) the repeal of the *Land Tax Assessment Act 1976* and *Land Tax Act 1976*; and
- (b) the amendment of section 41 of the *Metropolitan Region Town Planning Scheme Act 1959*,

on and after the commencement day the *Land Tax Relief Act 1991* and *Land Tax Relief Act 1992* apply as if the substantive provisions of the Acts mentioned in paragraphs (a) and (b) —

- (c) had not been repealed;
- (d) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
- (e) had been amended to make any modifications necessary for this section to have effect.

**Division 5 — Pay-roll tax**

**41. Treatment of certain contributions (*Pay-roll Tax Assessment Act 1971, Sch. 2 cl. 5*)**

Despite the repeal of the *Pay-roll Tax Assessment Act 1971*, Schedule 2 clause 5 of that Act continues to apply on and after the commencement day in relation to contributions wholly or partly in respect of services performed or rendered before 1 July 1997 as if that Act had not been repealed.

**42. Reassessments and refunds (*Pay-roll Tax Assessment Act 1971, s. 19*)**

Despite sections 16(3), 20(3) and 22(4) of the *Pay-roll Tax Assessment Act 2002* and section 16(1)(a) of the *Taxation Administration Act 2003*, the Commissioner is not required to make a reassessment of the amount of pay-roll tax payable by an employer in respect of wages paid or payable before the commencement day unless an application for a reassessment is made within 2 years after the tax was paid.

**Division 6 — Stamp duty**

- 43. Adhesive stamps (*Stamp Act 1921*, s. 15, 21 and 23)**
- (1) Despite its repeal by the *Stamp Amendment Act 2003*, section 15 of the old Stamp Act continues in force for 12 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
  - (2) Despite their repeal by the *Stamp Amendment Act 2003*, sections 21 and 23 of the old Stamp Act continue in force for 3 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
  - (3) If adhesive stamps affixed to an instrument have been cancelled in accordance with the old Stamp Act (including the provisions of the old Stamp Act continued in force by subsections (1) and (2)) the instrument is taken to have been endorsed in accordance with section 17C of the *Stamp Act 1921*.
- 44. Printing of “Stamp Duty Paid” on cheques (*Stamp Act 1921*, s. 52)**
- (1) An authorisation of a financial institution granted under section 52 of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement made under the *Taxation Administration Act 2003*.
  - (2) Any requirement that applied, immediately before the commencement day, to a person to whom an authorisation continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the authorisation was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.
- 45. First home owners — reassessment (*Stamp Act 1921*, s. 75AG)**
- Despite section 17(1) of the *Taxation Administration Act 2003*, if property that included a dwellinghouse was conveyed or transferred before the commencement day, an application for a reassessment of the duty payable on the conveyance or transfer on the basis that a rebate under section 75AG of the old Stamp Act should have been, but was not, allowed cannot be made more than 12 months after the date of the original assessment.
- 46. Reassessment of duty on grant or transfer of vehicle licences (*Stamp Act 1921*, s. 76C(18) and (19), 76CA(3a) and 76CB(9))**
- (1) This section applies in relation to a grant or transfer of a licence that occurred before the commencement day.

- (2) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should not have been paid because —
- (a) in the case of a grant — no vehicle licence fee was payable under the *Road Traffic Act 1974* in respect of the licence; or
  - (b) in the case of a transfer — had the transferee applied for the licence on the date of the transfer no vehicle licence fee would have been payable under the *Road Traffic Act 1974*,
- cannot be made more than 15 months after the licence was granted or transferred.
- (3) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty paid on the transfer of a licence on the basis that the duty should have been, but was not, charged in accordance with item 6 of the Second Schedule to the old Stamp Act because the transfer did not pass a beneficial interest, cannot be made more than 12 months after the licence was transferred.
- (4) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should have been, but was not, assessed on the net market value of the vehicle (as defined in section 76CB of the old Stamp Act), cannot be made more than 12 months after the licence was granted or transferred.

**47. Alternative to stamping individual insurance policies  
(Stamp Act 1921, s. 95A)**

- (1) A permission granted under section 95A of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement made under the *Taxation Administration Act 2003*.
- (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

- 48. Workers' compensation insurance (*Stamp Act 1921, s. 97 and item 16 of the Second Schedule*)**
- (1) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the issue or renewal of a policy of insurance that occurred before the commencement day on the basis that the duty was assessed under item 16(1)(a)(i) of the Second Schedule to the old Stamp Act but should have been assessed under item 16(1)(a)(ii), cannot be made more than 2 years after the beginning of the insurance policy's cover period.
  - (2) Despite the amendment of Schedule 2 item 16(1)(a) of the *Stamp Act 1921*, on and for 12 months after the commencement day —
    - (a) the reference in Schedule 2 item 16(1)(a)(i)(A) to the *Pay-roll Tax Assessment Act 2002* includes a reference to the *Pay-roll Tax Assessment Act 1971*; and
    - (b) the reference in Schedule 2 item 16(1)(a)(i)(B) to section 39 or 40 of the *Pay-roll Tax Assessment Act 2002* includes a reference to section 10 of the *Pay-roll Tax Assessment Act 1971*.
- 49. Payment of duty by returns (*Stamp Act 1921, s. 112V*)**
- (1) A permission granted under section 112V of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement under the *Taxation Administration Act 2003*.
  - (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

”

<sup>13</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>14</sup> On the date on which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 27* had not come into operation. It reads as follows:

“

**27. Agriculture and Related Resources Protection Act 1976 amended**

Section 9(5) of the *Agriculture and Related Resources Protection Act 1976* is amended as follows:

- (a) by deleting “1994,” and inserting instead —  
“ 1994 or ”;
- (b) by deleting “or the *Superannuation and Family Benefits Act 1938*”.

”

<sup>15</sup> The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 4 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

<sup>16</sup> The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 4 Div. 23 reads as follows:

“

**Division 23 — Transitional provisions**

**151. Commissioner for Fair Trading**

- (1) On commencement, the person holding the office of Commissioner for Fair Trading immediately before commencement is to be taken to have been designated as the Commissioner or Registrar (as the case requires) for the purposes of each of the following enactments —
  - (a) the *Associations Incorporation Act 1987*;
  - (b) the *Business Names Act 1962*;
  - (c) the *Chattel Securities Act 1987*;
  - (d) the *Companies (Co-operative) Act 1943*;
  - (e) Part 8 of the *Competition Policy Reform (Western Australia) Act 1996*;
  - (f) the *Consumer Affairs Act 1971*;
  - (g) the *Co-operative and Provident Societies Act 1903*;
  - (h) the *Credit Act 1984*;
  - (i) the *Credit (Administration) Act 1984*;
  - (j) the *Employment Agents Act 1976*;
  - (k) the *Hire-Purchase Act 1959*;
  - (l) the *Limited Partnerships Act 1909*;
  - (m) the *Motor Vehicle Dealers Act 1973*;
  - (n) the *Petroleum Products Pricing Act 1983*;

- (o) the *Petroleum Retailers Rights and Liabilities Act 1982*;
  - (p) the *Residential Tenancies Act 1987*;
  - (q) the *Retirement Villages Act 1992*;
  - (r) the *Travel Agents Act 1985*.
- (2) A thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading (including in his or her capacity as the Prices Commissioner) before commencement under a provision of the *Consumer Affairs Act 1971* for the purposes of another enactment listed in subsection (1) has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted —
- (a) by, to or in relation to, the Commissioner or Registrar (as the case requires) as defined in that other enactment as in force after commencement; and
  - (b) where relevant, under the corresponding provision of that other enactment as in force after commencement.
- (3) To the extent that a thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading (including in his or her capacity as the Prices Commissioner) before commencement under, or for the purposes of, an enactment listed in subsection (1) is not covered by subsection (2), it has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the Commissioner or Registrar (as the case requires) as defined in that enactment as in force after commencement.
- (4) A thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading before commencement under, or for the purposes of, an enactment not listed in subsection (1) has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the Commissioner as defined in the *Consumer Affairs Act 1971* as in force after commencement.
- (5) A reference in an enactment to the Commissioner for Fair Trading is to have effect after commencement as if it had been amended to be a reference to —
- (a) in the case of an enactment listed in subsection (1) or subsidiary legislation made under such an enactment — the Commissioner or Registrar (as the case requires) as defined in the enactment as in force after commencement; or
  - (b) in the case of any other enactment or subsidiary legislation — the Commissioner as defined in the



*Consumer Affairs Act 1971* as in force after commencement.

**152. Commissioner for Corporate Affairs and Registrar of Co-operative and Financial Institutions**

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner for Corporate Affairs before commencement under, or for the purposes of, the *Companies (Co-operative) Act 1943* has the same effect after commencement as if it had been done or omitted by, to or in relation to, the Registrar as defined in that Act as in force after commencement.
- (2) A thing done or omitted to be done by, to or in relation to, the Registrar of Co-operative and Financial Institutions before commencement under, or for the purposes of, the *Co-operative and Provident Societies Act 1903* has the same effect after commencement as if it had been done or omitted by, to or in relation to, the Registrar as defined in that Act as in force after commencement.

**153. *Consumer Affairs Act 1971***

Each office in existence immediately before commencement because of section 15(1) of the *Consumer Affairs Act 1971* does not cease merely because that subsection is repealed by this Act.

**154. *Petroleum Products Pricing Act 1983***

Each office in existence immediately before commencement because of section 5(2)(b) of the *Petroleum Products Pricing Act 1983* does not cease merely because that paragraph is deleted by this Act.

**155. Interpretation**

In this Division —

***commencement*** means the time at which this Division comes into operation;

***Commissioner for Fair Trading*** means the Commissioner for Fair Trading referred to in section 15 of the *Consumer Affairs Act 1971* as in force before commencement;

***Prices Commissioner*** means the Prices Commissioner referred to in section 5(1) of the *Petroleum Products Pricing Act 1983* as in force before commencement.

”

<sup>17</sup> On the date as at which this compilation was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 27 was in force. This does not have effect of repealing the *Agriculture and Related Resources Protection Act 1976*. This Act will be repealed upon publication of a proclamation made under s. 27 of the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*. It reads as follows:

**Division 6 — Agriculture and Related Resources Protection Act 1976**

**Subdivision 1 — Repeal and consequential amendments**

**27. Repeal**

- (1) The *Agriculture and Related Resources Protection Act 1976* is repealed on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

<sup>18</sup> The *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* Pt. 2 Div. 6 Subdivision 2 reads as follows:

**Subdivision 2 — Transitional and savings provisions**

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

In this Subdivision —

*commencement day* means the day on which the repealed Act Part V Division 6 is repealed;

*repealed Act* means the *Agriculture and Related Resources Protection Act 1976*.

[Section 30 amended by No. 46 of 2010 s. 60.]

**31. Rates on pastoral leases**

Despite section 27, the repealed Act Part V Division 6, as in force immediately before the commencement day, continues to apply in relation to a rate payable under that Division for a financial year commencing before the commencement day.

<sup>19</sup> On the date as at which this compilation was prepared, the *Road Traffic Legislation Amendment Act 2012* Pt. 4 Div. 1 had not come into operation. It reads as follows:

**Division 1 — *Agriculture and Related Resources Protection Act 1976* amended**

**39. Act amended**

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

**40. Section 7 amended**

In section 7(1) in the definition of *vehicle* delete “ascribed to that term in and for the purposes of the *Road Traffic Act 1974*,” and insert:

given in the *Road Traffic (Administration) Act 2008* section 4;

<sup>20</sup> On the date as at which this compilation was prepared, the *Commercial Arbitration Act 2012* s. 45 it. 1 had not come into operation. It reads as follows:

**45. Acts amended**

- (1) This section amends the Acts listed in the Table.
- (2) Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
<b>1. <i>Agriculture and Related Resources Protection Act 1976</i></b>		
s. 106(1)(g)	<i>Arbitration Act 1895</i>	<i>Commercial Arbitration Act 2012</i>

**Defined Terms**

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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>
amending section .....	60(8)
amending sections .....	124
animal.....	7(1)
animal-proof fence .....	7(1), 106(1)
area.....	36(5)
authorised person .....	7(1)
barrier fence .....	7(1)
category.....	7(1)
cattle.....	106(2)
class.....	7(1)
closure day .....	125(1)
coat.....	71(1)
commencement day .....	120
Commissioner .....	7(1)
control .....	7(1)
declaration.....	7(1)
declared animal .....	7(1), 38(1)
Declared Pest Account .....	7(1)
declared plant.....	7(1), 38(1)
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Director General.....	7(1)
district .....	7(1)
document.....	93(1)
dwelling .....	58(1)
fodder .....	71(1)
former account .....	125(1)
Government department.....	7(1)
inspector.....	7(1)
land under the control of a local government.....	7(1)
machinery.....	71(1)
management programme.....	7(1)
occupier.....	7(1)
occupy.....	7(1)
operational work .....	57
own .....	7(1)
owner .....	7(1)
pastoral lease.....	7(1)
pensioner.....	64(6)
pest plant.....	109

**Defined Terms**

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plant .....	7(1)
private land .....	7(1)
prohibited material .....	7(1)
Protection Board .....	120
public land.....	7(1)
rabbit-proof fence.....	7(1), 106(1)
restricted animal.....	71(1)
sack .....	71(1)
seed .....	71(1)
serve .....	93(1)
specified .....	107(2), 129(5)
take .....	68(1)
taking .....	68(1)
to declare.....	7(1)
train .....	7(1)
transitional matter .....	129(2)
vehicle.....	7(1)
watercourse .....	7(1)
wool pack.....	71(1)