

**AGRICULTURAL LEGISLATION  
AMENDMENT AND REPEAL  
ACT 1998**

---

**No. 9 of 1998**

---

**AN ACT to amend the —**

- *Agriculture and Related Resources Protection Act 1976;*
- *Agriculture Protection Board Act 1950;*
- *Artificial Breeding of Stock Act 1965;*
- *Fertilizers Act 1977;*
- *Horticultural Produce Commission Act 1988;*
- *Seeds Act 1981;* and
- *Veterinary Preparations and Animal Feeding Stuffs Act 1976,*

**to repeal the *Fruit-growing Reconstruction Scheme Act 1972* and for related purposes.**

*[Assented to 30 April 1998.]*

The Parliament of Western Australia enacts as follows:

s. 1 No. 9] *Agricultural Legislation Amendment and  
Repeal Act 1998*

## **PART 1 — PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Agricultural Legislation Amendment and Repeal Act 1998*.

### **Commencement**

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

**PART 2 — AGRICULTURE AND RELATED RESOURCES  
PROTECTION ACT 1976**

**Section 17 repealed**

**3.** Section 17 of the *Agriculture and Related Resources Protection Act 1976*\* is repealed.

[\* Reprinted as approved 10 February 1981.  
For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, pp. 6-7.]



**PART 4 — ARTIFICIAL BREEDING OF STOCK ACT 1965**

**Principal Act**

5. In this Part the *Artificial Breeding of Stock Act 1965\** is referred to as the principal Act.

[\* *Reprinted as at 5 February 1990.  
For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, pp. 14-15.*]

**Section 6 amended**

6. Section 6 (6) of the principal Act is amended by deleting “the Minister on the recommendation of”.

**Section 8A inserted**

7. After section 8 of the principal Act the following section is inserted —

“

**Review of decisions of Chief Veterinary Surgeon**

**8A.** (1) A person who is aggrieved by a decision of the Chief Veterinary Surgeon under section 6 or 7 may apply to the Minister to have the decision reviewed.

(2) If the Minister receives an application under subsection (1), the Minister is to direct the Chief Veterinary Surgeon —

(a) to review the decision; and

- (b) within the time specified in the direction, to either make a different decision or advise the applicant in writing of the reasons for not doing so,

and the Chief Veterinary Surgeon must give effect to the direction.

”.

**Certain references to Minister changed to Chief Veterinary Surgeon**

**8.** The principal Act is amended by deleting “Minister” in the provisions set out in the Table to this section and substituting the following —

“ Chief Veterinary Surgeon ”.

Table

s. 6 (4)	s. 7 (1)	s. 8 (4)
s. 6 (6)	s. 7 (2)	s. 13 (1) (j)
s. 6 (7)	s. 8 (3)	s. 13 (3) (b)

**PART 5 — FERTILIZERS ACT 1977**

**Principal Act**

**9.** In this Part the *Fertilizers Act 1977\** is referred to as the principal Act.

[\* *Act No. 11 of 1977.*

*For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, p. 80.]*

**Part IV repealed**

**10.** Part IV of the principal Act is repealed.

**Section 21 repealed and a section substituted**

**11.** Section 21 of the principal Act is repealed and the following section is substituted —

“

**Sale of sub-standard fertilizer**

**21.** (1) In this section —

“**sub-standard fertilizer**” means a fertilizer —

- (a) that does not comply with a grade or standard prescribed for that fertilizer; or
- (b) that contains an ingredient that does not comply with a grade or standard prescribed for that ingredient.

(2) A person who sells a sub-standard fertilizer commits an offence against this Act.

”.

**Minor or consequential amendments**

**12.** The principal Act is amended as set out in the Table to this section.

Table

- |           |   |
|-----------|---|
| s. 4      | Repeal the section.   |
| s. 5      | Delete the subsection designation “ (1) ”.<br>In the definition of “label” delete “trade description, ”.<br>Delete these definitions:<br>“Director”<br>“primary dealer”<br>“Register”<br>“Registrar”<br>“registration year”<br>“trade description”.<br>After the definition of “substance” delete the semicolon and substitute a full stop. |
| s. 11     | Repeal the section.   |
| s. 12 (1) | Repeal the subsection and substitute —<br>“ (1) The chief executive officer may designate officers of the department of the Public Service principally assisting the Minister with the administration of this Act as inspectors under this Act. ”.  |
| s. 19     | Repeal the section.   |
| s. 22     | Repeal the section.   |
| s. 23     | Repeal the section.   |
| s. 26 (1) | Repeal the subsection and substitute —<br>“ (1) Notwithstanding any agreement or notice to the contrary, a statement in any advertisement for, label on, or invoice for the sale of, any fertilizer has effect as a warranty by the seller of the accuracy of the statement. ”.   |



- s. 28 (1) Repeal the subsection and substitute the following subsection —
- “ (1) An inspector who has reasonable grounds for believing that any substance is, or that any package contains a substance that is, a fertilizer, a specified ingredient, or an ingredient of a fertilizer (including any fertilizer or substance the sale of which is prohibited by regulations made under section 8) may take for analysis and examination a sample of that substance and where necessary may open the packaging to enable that power to be exercised. ”.
- s. 31 (1) Delete “its trade description,” and substitute —
- “ any standard prescribed for it, ”.
- s. 31 (2) Delete “the trade description of” and substitute —
- “ any prescribed standard for ”.
- s. 33 (2) Delete paragraph (b).
- s. 33 (3) Repeal the subsection.
- s. 37 Delete “or by the Registrar,”.
- s. 42 After paragraph (a), insert —
- “ and ”.
- Delete paragraphs (b), (c) and (d) and “and” after paragraph (d).
- s. 44 (2) Delete paragraphs (a), (b), (c), (e) and (f).
- s. 44 (3) Delete paragraph (b) and substitute —
- “ (b) prescribe the charges that shall be made for any matter under this Act, the persons liable to pay the charges and the method of recovering amounts not duly paid; ”.

**References to “Director” changed to “chief executive officer”**

13. The principal Act is amended in the provisions set out in the Table to this section by deleting “Director” in each place where it occurs and substituting in each place the following —

“ chief executive officer ”.

Table

s. 10	s. 33 (1)	s. 37
s. 12 (2)	s. 33 (4)	s. 42

**Refund of registration fees**

14. (1) If immediately before the commencement of this Act a fertilizer is registered in the name of a person under Part IV of the principal Act, the chief executive officer of the department of the Public Service principally assisting the Minister administering the principal Act shall refund to the person some or all of the fee paid for the registration.

(2) The refund shall be calculated as follows:

$$\text{Refund} = F \times \frac{P}{RP}$$

where:

- F = The fee paid for the registration.  
P = The period (to the nearest whole month) beginning on the commencement of this Act and ending when the registration was due to expire.  
RP = The period for which the registration was valid or in force under section 17 of the principal Act (to the nearest whole month).

**Transitional provision**

**15.** On the commencement of this Act, the chief executive officer of the department of the Public Service principally assisting the Minister administering the principal Act is to take delivery of the Register referred to in section 11 of the principal Act and retain possession of it for 3 years after the commencement of this Act.

**PART 6 — HORTICULTURAL PRODUCE COMMISSION  
ACT 1988**

**Section 3 amended**

**16.** Section 3 (1) of the *Horticultural Produce Commission Act 1988*\* is amended by deleting the definition of “horticultural produce” and substituting the following definition —

“

**“horticultural produce”** means —

- (a) fruit and the juices of fruit, whether fresh or processed;
- (b) vegetables and the juices of vegetables, whether fresh or processed;
- (c) nuts including processed nuts;
- (d) flowers, whether fresh or dried;
- (e) plants, including grass and other herbaceous plants, grown for sale as living plants;

”.

[\* *Act No. 75 of 1988.*

*For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, p. 105.]*

**PART 7 — SEEDS ACT 1981**

**Section 14 amended**

17. Section 14 (1) of the *Seeds Act 1981*\* is repealed and the following subsection is substituted —

“

(1) The Minister may appoint persons, including officers, to be inspectors or seed analysts for the purposes of this Act.

”.

[\* *Act No. 35 of 1981.*

*For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, p. 208.]*

**PART 8 — VETERINARY PREPARATIONS AND ANIMAL  
FEEDING STUFFS ACT 1976**

**Principal Act**

**18.** In this Part the *Veterinary Preparations and Animal Feeding Stuffs Act 1976*\* is referred to as the principal Act.

[\* *Act No. 56 of 1976.*

*For subsequent amendments see 1996 Index to  
Legislation of Western Australia, Table 1, p. 239.]*

**Section 11 repealed and a section substituted**

**19.** Section 11 of the principal Act is repealed and the following section is substituted —

“

**Unhygienic production etc. of animal feeding stuffs**

**11.** (1) A person who produces, holds or stores any animal feeding stuff for the purposes of sale in a manner that is unsanitary or is otherwise not in accordance with the regulations commits an offence against this Act.

(2) The owner or occupier of any premises that are unsanitary or that otherwise do not comply with the regulations commits an offence against this Act.

”.

**Section 14 repealed and a section substituted**

**20.** Section 14 of the principal Act is repealed and the following section is substituted —

“

**Sale of sub-standard animal feeding stuff**

**14.** (1) In this section —

“**sub-standard animal feeding stuff**” means an animal feeding stuff —

- (a) that does not comply with a grade or standard prescribed for that animal feeding stuff; or
- (b) that contains an ingredient that does not comply with a grade or standard prescribed for that ingredient.

(2) A person who sells a sub-standard animal feeding stuff commits an offence against this Act.

”.

**Part IV repealed**

**21.** Part IV of the principal Act is repealed.

**Part V repealed**

**22.** Part V of the principal Act is repealed.

**Minor or consequential amendments**

**23.** The principal Act is amended as set out in the Table to this section.

Table

s. 5 (1)	Delete these definitions: “primary dealer” “registration year” “the Advisory Committee” “the Registrar” “trade description”.
----------	---

No. 9] *Agricultural Legislation Amendment and*  
s. 23 *Repeal Act 1998*

- s. 6 (2) Delete “ V, ”.
- s. 8 (1) Delete “, whether registered under this Act or not, ”.
- s. 12 Repeal the section.
- s. 13 (2) Delete “the registration of which has been refused or”.
- s. 15 Repeal the section.
- s. 36A (1) (b) Delete the paragraph.
- s. 36A (1) (c) Delete subparagraphs (i) and (ii).
- s. 36A (1) (g) In subparagraph (i) delete “sale or”.
- s. 36C Repeal the section.
- s. 38 (1) (a) Delete “of any prescribed substance or”.
- s. 39 (1) (b) Delete “any prescribed substance or”.
- s. 42 (1) Delete “the Registrar” and substitute —  
“ an inspector ”.  
Delete “and deliver that sample to an inspector or  
analyst for analysis.” and substitute —  
“ and shall deliver the sample for analysis in  
such manner and to such person as the  
inspector may require. ”.
- s. 42 (2) Delete “the Registrar” and substitute —  
“ an inspector ”.
- s. 42A (a) Delete the paragraph.
- s. 48 (1) Delete “Registrar” in the 2 places where it occurs and  
substitute —  
“ Director ”.  
Delete “, or the primary dealer in”.
- s. 48 (2) Delete “Registrar” and substitute —  
“ Director ”.



- s. 52 (1) (a) In subparagraph (vi) delete “registered”.
- s. 53 Delete paragraph (a).  
Delete paragraph (b) and substitute —  
“ (b) which is not labelled in accordance  
with any prescribed labelling  
requirements; ”.
- Delete paragraph (c).
- s. 54 (1) Repeal the subsection and substitute —  
“ (1) A person shall not publish, or cause  
to be published, an advertisement in relation  
to any animal feeding stuff that is false,  
misleading or deceptive or that cannot be  
substantiated in any particular. ”.
- s. 54 (2) Delete “Registrar” in the 2 places where it occurs and  
substitute —  
“ Director ”.
- s. 57 (3) Repeal the subsection.
- s. 58 (1) Repeal the subsection and substitute —  
“ (1) Notwithstanding any agreement or  
notice to the contrary, a statement in any  
advertisement for, label on, or invoice for the  
sale of, any animal feeding stuff has effect as  
a warranty by the seller of the accuracy of  
the statement. ”.
- s. 61 (2) Delete “prescribed substance, ”.
- s. 65 (aa) Delete the paragraph.
- s. 67 Delete “ , or by the Advisory Committee or any member  
thereof, or by the Registrar, ”.  
Delete “or its”.  
Delete “or body”.
- s. 68 (2) In paragraph (a) delete “registration, ”.  
Delete paragraphs (d) and (e).

In paragraph (g) delete “Registrar” and substitute —  
“ Director ”.

In paragraph (h) delete “primary dealers, ”.

s. 68 (3) Delete paragraph (b) and substitute —

“ (b) may prescribe the charges that shall  
be made for any matter under this Act,  
the persons liable to pay the charges  
and the method of recovering amounts  
not duly paid; ”.

### **Refund of registration fees**

**24.** (1) If immediately before the commencement of this Act an animal feeding stuff is registered in the name of a person under Part V of the principal Act, the chief executive officer of the department of the Public Service principally assisting the Minister administering the principal Act shall refund to the person some or all of the fee paid for the registration.

(2) The refund shall be calculated as follows:

$$\text{Refund} = F \times \frac{P}{RP}$$

where:

F = The fee paid for the registration.

P = The period (to the nearest whole month) beginning on the commencement of this Act and ending when the registration was due to expire.

RP = The period for which the registration was in force under section 30 of the principal Act (to the nearest whole month).

### **Transitional provision**

**25.** On the commencement of this Act, the chief executive officer of the department of the Public Service principally assisting the Minister administering the principal Act is to take delivery of the Register referred to in section 24 of the principal Act and retain possession of it for 3 years after the commencement of this Act.

**PART 9 — *FRUIT-GROWING RECONSTRUCTION  
SCHEME ACT 1972***

**Act repealed**

**26.** The *Fruit-growing Reconstruction Scheme Act 1972* is repealed.

---