

WESTERN AUSTRALIA

**SKELETON WEED AND
RESISTANT GRAIN INSECTS
(ERADICATION FUNDS)
AMENDMENT ACT 1996**

No. 53 of 1996

AN ACT to amend the *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act 1974*, and for related purposes.

[Assented to 31 October 1996.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1996*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act 1974** is referred to as the principal Act.

[* Act No. 76 of 1974.

For subsequent amendments, see 1995 Index to Legislation of Western Australia, Table 1, p. 203.]

Long title amended

4. The long title to the principal Act is amended by deleting —

(a) “**a contribution**” and substituting the following —

“ **contributions** ”;

(b) “**or crop**” and substituting the following —

“ **, crop or bags** ”; and

(c) “**and the establishment of a Fund for the eradication of certain insect pests**” and substituting the following —

“ **, the establishment of a Fund for the eradication of certain insect pests and the establishment of a Fund for the eradication of, and the prevention of the spread of, certain plant diseases and for the payment of compensation to owners of grain, seed, crop or bags destroyed in the course of steps taken to eradicate, or prevent the spread of, those plant diseases** ”.

Section 1 amended

5. Section 1 of the principal Act is amended by deleting “*Skeleton Weed and Resistant Grain Insects*” and substituting the following —

“ *Plant Pests and Diseases* ”.

Section 4 amended

6. Section 4 of the principal Act is amended —

(a) by inserting after “4.” the following —

“ (1) ”;

(b) in the definition of “contribution” by inserting after “Fund” the following —

“
or the Plant Diseases Eradication Fund, as the
case requires,
”;

(c) by inserting after the definition of “crop year” the following definition —

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

(d) by deleting the definition of “inspector” and substituting the following definitions —

“
“**inspector**” means a person who is —

(a) an inspector or authorized person
within the meanings given to those
terms by the *Agriculture and Related
Resources Protection Act 1976*; or

(b) an inspector within the meaning given to that term by the *Plant Diseases Act 1914*,

as the case requires;

“lupins” means all cultivars of —

(a) *Lupinus angustifolius* (narrow-leaved lupins);

(b) *Lupinus albus* (albus lupins); or

(c) *Lupinus luteus* (yellow lupins);

”;

(e) by inserting after the definition of “owner” the following definitions —

“

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

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

”;

(f) by inserting after the definition of “resistant grain insects” the following definition —

“

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

”;

- (g) in the definition of “seed” by inserting after “rapeseed” the following —

“ , the seed of lupins ”; and

- (h) by inserting after the existing section the following subsection —

“

(2) The Minister may, for the purposes of the definition of “plant disease” in subsection (1), by notice published in the *Gazette* —

- (a) designate any disease, including any plant, animal, fungus, bacterium, virus or nematode, capable of affecting grain or seed production; and

- (b) amend or revoke a designation made under this subsection.

”.

Section 7 amended

7. Section 7 (2) of the principal Act is amended by deleting “in any securities approved by the Treasurer” and substituting the following —

“

in the same manner as public moneys standing to the credit of the Public Bank Account referred to in section 19 of the *Financial Administration and Audit Act 1985* may be invested

”.

Sections 8D, 8E, 8F and 8G inserted, and validation

8. (1) After section 8C of the principal Act the following sections are inserted —

“

Plant Diseases Eradication Fund

8D. (1) There shall be established and kept at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account to be known as the Plant Diseases Eradication Fund.

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

Payments charged to Plant Diseases Eradication Fund

8E. All payments charged to the Plant Diseases Eradication Fund shall, before being so charged, be approved by both the Minister and the Protection Board.

Application of Plant Diseases Eradication Fund

8F. (1) The Plant Diseases Eradication Fund shall be applied to the payment of —

- (a) expenses directly related to the eradication of, or the prevention of the spread of, plant diseases;
- (b) compensation in accordance with this Act in relation to a declared crop year;

- (c) expenses incurred in the determination of the value of any grain, seed, crop or bag in respect of which compensation is paid under this Act in relation to a declared crop year; and
- (d) expenses incurred by the Grain Pool within the meaning of the *Grain Marketing Act 1975* before the expiry of a period of 6 months beginning on the commencement of section 8 of the *Skeleton Weed and Resistant Grain Insects (Eradication Funds) Amendment Act 1996* in paying compensation to the owners of any lupins destroyed under a power exercised under the *Plant Diseases Act 1914*.

(2) Any moneys standing to the credit of the Plant Diseases Eradication Fund may, until required for the purposes of this Act, be temporarily invested by the Treasurer in the same manner as public moneys standing to the credit of the Public Bank Account referred to in section 19 of the *Financial Administration and Audit Act 1985* may be invested, and all interest derived from that investment shall be credited to the Plant Diseases Eradication Fund.

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

Treasurer may make advances to the Plant Diseases Eradication Fund in event of a deficiency

8G. (1) When the Treasurer is of opinion that the moneys standing to the credit of the Plant Diseases Eradication Fund are at any time insufficient for the

purposes of this Act, the Treasurer may advance to the Plant Diseases Eradication Fund moneys sufficient for the time being to make up the deficiency.

(2) Moneys advanced under subsection (1) shall be subsequently repaid to the Treasurer from moneys standing to the credit of the Plant Diseases Eradication Fund by the Protection Board as and when moneys are available to the Plant Diseases Eradication Fund to make repayment.

(3) Moneys advanced by the Treasurer under this section are so long as they remain unrepaid a charge on the Plant Diseases Eradication Fund.

”.

(2) Any expenses incurred by the Grain Pool before the expiry of a period of 6 months beginning on the commencement of this section in paying compensation to the owners of any lupins destroyed under the *Plant Diseases Act 1914* are to be treated, despite anything in the *Grain Marketing Act 1975* or any other Act, as having been lawfully incurred.

(3) The application of amounts of the reserve fund for the purpose of meeting expenses referred to in subsection (2) is to be treated, despite anything in the *Grain Marketing Act 1975* or any other Act, as having been lawfully done.

(4) In subsections (2) and (3) —

“**Grain Pool**” has the same meaning as it has in the *Grain Marketing Act 1975*;

“**lupins**” has the same meaning as it has in the principal Act as amended by this Act;

“**reserve fund**” has the same meaning as it has in the *Grain Marketing Act 1975*.

Section 9 amended

9. Section 9 of the principal Act is amended —

(a) by inserting after subsection (2a) the following subsections —

“

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

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

(b) by which the destroyed bag was contaminated.

(2c) A declaration under subsection (2b) shall not be made more than once in each crop year in relation to the same kind of crop.

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

(a) grain;

(b) seed; or

(c) grain and seed,

harvested from a crop of the kind to which a declaration under subsection (2b) relates and grown during the relevant declared crop year shall in respect of that declared crop year pay a

contribution to the Plant Diseases Eradication Fund in accordance with the order made for that declared crop year under subsection (3c).

”;

- (b) by inserting after subsection (3b) the following subsections —

“

(3c) The Governor, on the recommendation of the Minister made forthwith after the making of a declaration under subsection (2b), shall, subject to subsection (3d), by order published in the *Gazette* as soon as practicable after the making of that recommendation, specify the amount of the contribution, or the method of calculating the contribution, to be paid to the Plant Diseases Eradication Fund for the relevant declared crop year.

(3d) A recommendation made by the Minister under subsection (3c) shall be based on the cost or estimated cost of meeting the payments for services referred to in section 8F in respect of the relevant declared crop year.

”;

- (c) in subsection (5) by inserting after “is liable to pay” the following —

“ to the Fund ”; and

- (d) by inserting after subsection (5) the following subsections —

“

(6) For the purpose of ascertaining the contribution, if any, a grower is liable to pay to the Plant Diseases Eradication Fund under this section, all deliveries made by him of grain or

seed or both harvested from the crop of the kind to which the relevant declaration under subsection (2b) relates shall be aggregated.

(7) For the purposes of this Act, any grain or seed of the relevant kind delivered during the period of 12 months ending on 31 October of any year shall be deemed to have been grown during the relevant declared crop year, if any, ending on 31 October next ensuing after that delivery, unless the person delivering the grain or seed satisfies the Board that it was produced in another crop year.

”.

Section 10 amended

10. Section 10 of the principal Act is amended —

(a) by deleting “The contribution” and substituting the following —

“ A contribution ”;

(b) by deleting paragraph (d) and substituting the following paragraph —

“

(d) in respect of —

(i) a crop year after the 1990-1991 crop year is payable to the Fund not later than 28 days after the Company or receiver of grain or seed first makes a payment to the grower for grain or seed during that crop year; or

(ii) a declared crop year is payable to the Plant Diseases Eradication Fund not later than 28 days after the Company

or receiver of grain or seed first makes a payment to the grower for grain or seed of the kind to which the declared crop year relates during the declared crop year,

”;

and

(c) by inserting before “that may be sued for” the following —

“

or the Plant Diseases Eradication Fund, as the case requires,

”.

Section 12 amended

11. Section 12 (1) of the principal Act is amended by inserting before “, unless it appears to him” the following —

“

or the Plant Diseases Eradication Fund, as the case requires

”.

Section 13 amended

12. Section 13 of the principal Act is amended —

(a) by inserting after “Agriculture and Related Resources Protection Act 1976” wherever it occurs the following —

“ or *Plant Diseases Act 1914* ”;

- (b) in subsection (1) by deleting “the presence of skeleton weed therein” and substituting the following —

“ the presence of —

- (a) skeleton weed; or
- (b) a plant disease,

therein

”;

and

- (c) in subsection (3) by deleting “the presence of skeleton weed in” and substituting the following —

“ the presence of —

- (a) skeleton weed; or
- (b) a plant disease,

in or with

”.

Consequential amendments to *Bulk Handling Act 1967*

- 13.** (1) Section 34D (1) of the *Bulk Handling Act 1967** is amended by —

- (a) inserting after “Skeleton Weed Eradication Fund” the following —

“ or the Plant Diseases Eradication Fund, as the case requires,

”;

and

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- (b) deleting “*Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act 1974*” and substituting the following —

“
Plant Pests and Diseases (Eradication Funds) Act 1974
”.

- (2) Section 51 (1) (aa) of the *Bulk Handling Act 1967** is amended by deleting “*Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act 1974*” and substituting the following —

“
Plant Pests and Diseases (Eradication Funds) Act 1974
”.

[* Reprinted as at 13 September 1993.]