

AERIAL SPRAYING CONTROL.

No. 16 of 1978.

**AN ACT to amend the Aerial Spraying Control Act,
1966-1973.**

[Assented to 18th May, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Aerial Spraying Control Act Amendment Act, 1978.*

Short title
and citation.

(2) In this Act the Aerial Spraying Control Act, 1966-1973, is referred to as the principal Act.

Reprinted as
approved for
Reprint 2nd
June, 1971
and amended
by Act No.
94 of 1972
(as amended
by Act No. 19
of 1973) and
Act No. 57
of 1973.

(3) The principal Act as amended by this Act may be cited as the Aerial Spraying Control Act, 1966-1978.

Commence-
ment.

2. This Act shall come into operation on a date to be proclaimed.

Section 6
amended.

3. Section 6 of the principal Act is amended by deleting the word "Four" in line seven, and substituting the word "Eight".

Section 9
amended.

4. Section 9 of the principal Act is amended by deleting the word "Four", in line seven of subsection (4) of that section, and substituting the word "Eight".

Section 10
amended.

5. Section 10 of the principal Act is amended—

- (a) by deleting the passage "No aerial spraying shall be commenced unless the owner of the aircraft from which the aerial spraying is to be carried out has", in lines one to three of subsection (1) and substituting the passage "A person who is licensed pursuant to the Air Navigation Regulations of the Commonwealth to use an aircraft for agricultural operations for hire or reward shall";
- (b) by deleting the word "lodged" in paragraph (a) of subsection (1) of that section, and substituting the word "lodge";
- (c) by deleting the word "satisfied" in line one of paragraph (b) of subsection (1) of that section, and substituting the word "satisfy";
- (d) by deleting the words "for an amount of not less than thirty thousand dollars", in lines ten and eleven of subsection (1) of that section;
- (e) by deleting the words "the insured amount in the aggregate of the owner", in lines twenty and twenty-one of subsection (1) of that section, and substituting the words "an amount of not less than thirty thousand dollars in respect of each and every claim under that contract"; and

(f) by adding three new subsections as follows—

(5) The Director shall, by notice under his hand, grant an exemption from the requirements of subsection (1) of this section, either generally, or in relation to a specified aircraft, or in particular circumstances therein specified, to any person who satisfies him that the aircraft to which the exemption relates is not to be used for aerial spraying, and where any such aircraft is so used that exemption shall be deemed not to have been granted.

(6) In any proceedings, the onus of proving that the requirements of subsection (1) of this section have been complied with, or do not apply, shall lie on the person who alleges that to be the case.

(7) A person who fails to comply with the requirements of this section is guilty of an offence.

Penalty: One thousand dollars. .

6. Section 11 of the principal Act is amended by adding at the end thereof the passage "Penalty: Five hundred dollars." Section 11 amended.

7. The principal Act is amended by inserting after section 13 a new section, to stand as section 13A, as follows— Section 13A added.

13A. (1) The Minister may appoint any officer of the Department or the Agriculture Protection Board to be an inspector for the general purposes of this Act. Inspectors.

(2) Every person appointed to be an inspector under this Act shall be furnished with a certificate in the prescribed form evidencing his appointment and shall produce such certificate whenever required so to do by any person in respect of whom he has exercised or is about to exercise any of his powers under this Act.

(3) Production of a certificate in the prescribed form is conclusive proof in any court of the appointment of the inspector to whom that certificate relates and of his authority as such an inspector to exercise the powers conferred upon an inspector appointed under this Act.

(4) A person shall furnish all reasonable assistance and all relevant information that he is capable of furnishing to an inspector acting in the exercise of his powers and the discharge of his duties under this Act and, subject to the right to make an objection in respect of the making of the statement pursuant to subsection (5) of this section, shall not withhold any such information.

(5) Where a person who makes a statement pursuant to this section before he does so objects to having to make that statement on the ground that it might tend to incriminate him, the statement so made—

- (a) shall not be admissible in evidence in any prosecution against that person for any offence other than the offence of contravening or failing to comply with the provisions of this section; and
- (b) if recorded, in writing or otherwise, shall set out the fact of the objection having been made.

(6) An inspector appointed under this section may—

- (a) at any time enter on or into any land, premises or thing where he has reason to believe that aerial

spraying is or may be taking place or may be affected thereby, or which he has reason to believe is being used in connection with aerial spraying, and may take with him such persons as he thinks competent and necessary to assist him in making any inspection or examination;

- (b) inspect all aircraft, vehicles, apparatus, fittings or appliances which he has reason to believe are used or intended to be used for or in connection with aerial spraying;
- (c) make such inspection, examination, sampling, inquiry and tests, and ask such questions, and request such information, as he considers necessary or desirable, and to the extent required, to ascertain—
 - (i) whether the provisions of this Act or any requirement made under or pursuant thereto are being or have been complied with;
 - (ii) whether any condition, restriction, or limitation is being or has been observed;
 - (iii) the cause, results and other aspects of any damage and other matters arising therefrom or suspected of being related thereto which is or may be attributable to matters to which this Act relates,and to evaluate the efficiency of the method of working and the aircraft and apparatus used, having particular regard to the safety aspects in relation to the effect of spraying on plants or animals; and
- (d) exercise such other authorities and discretions and perform such duties as may be prescribed.

(7) Where an inspector having made an inspection is of the opinion that any method of working, aircraft, apparatus or other thing which he is empowered to inspect—

(a) does not conform with the requirements of this Act; or

(b) is, in relation to the effect of spraying on plants or animals, unsafe,

he may by an order in writing prohibit the further use of any such method or thing either absolutely or except subject to such conditions, restrictions or limitations as he shall specify in that order until such time as an inspector is satisfied that such method or thing so conforms and is safe.

(8) A person aggrieved by an order given by an inspector pursuant to subsection (7) of this section may appeal in the prescribed manner to the Minister and the decision of the Minister in relation to that appeal shall be final, but notwithstanding the right of appeal hereby conferred the order of the inspector shall take effect according to its tenor until the appeal is determined or the Director otherwise authorises.

(9) A person who wilfully obstructs an inspector acting in the execution of the powers conferred by this section, or acting pursuant to any regulation made under this Act, commits an offence and is liable on conviction to a penalty not exceeding two hundred dollars.

(10) A person who without reasonable excuse fails to give to any inspector acting in the execution of the powers conferred by this section or acting pursuant to any regulation made under this Act any assistance which that inspector may reasonably request him to give, or any information which that inspector is expressly authorised by or under this Act to call

for or which he may reasonably require or who, when required to give any such information, knowingly makes any false or misleading statement in relation thereto, shall be treated as having wilfully obstructed that inspector. .

8. Section 14 of the principal Act is amended by deleting the word "One", in line six of subsection (3) of that section, and substituting the word "Two".

Section 14
amended.

9. Section 18 of the principal Act is amended by deleting the word "two", in line three of subsection (2) of that section, and substituting the word "four".

Section 18
amended.
