



Western Australia

## **Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981**

Compare between:

[05 Feb 2013, 01-d0-01] and [01 May 2013, 01-e0-03]



Western Australia

Agriculture and Related Resources Protection Act 1976

## **Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981**

### **1. Citation**

These regulations may be cited as the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981*<sup>1</sup>.

### **2. Interpretation**

- (1) In these regulations, unless the context otherwise requires —
- property quarantine area*** means property quarantine area constituted under regulation 10;
- property quarantine notice*** means notice served under regulation 3;
- quarantined land*** means land in respect of which a property quarantine notice has been, or is deemed to have been, served;
- regulation*** means one of these regulations;
- subregulation*** means subregulation of the regulation in which the word is used;
- the Act*** means the *Agriculture and Related Resources Protection Act 1976* (as amended).
- (2) Where in these regulations a penalty is set out at the foot of a subregulation it relates only to the provisions of that subregulation notwithstanding that the penalty may also be at the foot of the regulation of which that subregulation is a part.

**3. Quarantine notice**

- (1) An inspector or authorised person may serve upon both the owner and the occupier of land in or upon which, or a part of which, declared plants or declared animals are, or are suspected to be, present a notice in writing specifying —
  - (a) the land, or part of the land, to which the notice applies;
  - (b) the declared plants or declared animals that are, or are suspected to be, present; and
  - (c) the time from which the notice applies.
- (2) A notice under subregulation (1) may require that any —
  - (a) animal;
  - (b) animal hide, skin, coat or fibre;
  - (c) animal excrement;
  - (d) soil;
  - (e) hay, chaff, fodder or grain made or produced from any crop grown on the land;
  - (ea) plant or product of any plant —
    - (i) whether living or dead; and
    - (ii) whether or not grown on the land, including any flower, fruit, seed or timber; or
  - (f) vehicle or machine that has been used for agricultural, excavation, or earthmoving purposes on the land,that is specified in the notice, or is of a class specified in the notice, shall not be moved from the land in respect of which the notice applies except in accordance with the notice, or pursuant to an approval given under regulation 7 or a general exemption having effect under regulation 9.
- (3) An inspector or authorised person may, by notice in writing given to the owner and the occupier of land to which a property quarantine notice applies, revoke the notice if the inspector or authorised officer considers that it is appropriate to do so.

- (3a) If an inspector or authorised person revokes a property quarantine notice under subregulation (3) the land to which the notice applied ceases to be quarantined land.
- (4) Subject to subregulation (3), a property quarantine notice shall have effect according to its tenor, and every person who has been served with a property quarantine notice shall do all such things as are necessary to ensure compliance with the notice.  
Penalty: a fine of \$2 000.

*[Regulation 3 amended in Gazette 11 Jul 2003 p. 2740;  
8 Feb 2005 p. 647; 17 Dec 2010 p. 6426.]*

#### **4. Warning**

- (1) An inspector or authorised person who serves a property quarantine notice —
  - (a) under regulation 3, shall erect signs in accordance with subregulation (2) if the Director General is satisfied that, before committing an offence against regulation 3, persons would not have, or could not reasonably be expected to have, notice that the land is quarantined land;
  - (b) under regulation 8 shall, unless the Director General otherwise approves, erect signs in accordance with subregulation (2) in relation to that land and approval to dispense with the erection of signs in relation to such quarantined land shall not be given under this paragraph unless the Director General giving the approval is satisfied that, before committing an offence against these regulations in relation to land persons would have, or could reasonably be expected to have, notice that the land is quarantined land.
- (2) Where signs are required by subregulation (1) to be erected in relation to quarantined land, there shall be erected in such manner as to be conspicuous to persons entering the land —

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- (a) at each of the main entrances — a sign at least 75 cms wide and 45 cms high; and
- (b) at each other entrance — a sign at least 25 cms wide and 18 cms high,

indicating that the land is under quarantine and the declared plants or declared animals by reason of the presence, or suspected presence, of which the land is under quarantine.

- (3) Where, under regulation 8, a property quarantine notice prohibits the entry of persons upon land to which the property quarantine notice relates, each sign erected under this regulation in relation to that land shall bear a conspicuous warning that entry upon the land is restricted under a property quarantine notice and that a person entering the land contrary to that notice commits an offence and is liable to prosecution.
- (4) A person shall not, without lawful authority, remove, obscure, or otherwise interfere with a sign erected under this regulation.

Penalty: a fine of \$2 000.

*[Regulation 4 amended in Gazette 8 Nov 1985 p. 4297;  
17 Dec 2010 p. 6426-7.]*

**5. Movement from quarantined land**

- (1) A person shall not, except pursuant to an approval given under regulation 7 or a general exemption having effect under regulation 9, move any thing from quarantined land contrary to a property quarantine notice.

Penalty: a fine of \$2 000.

- (2) Where land is the subject of a property quarantine notice the occupier of the land shall, before allowing any person to move anything, the movement of which is the subject of the property quarantine notice, from the quarantined land, produce, or cause to be produced by that person —
  - (a) the property quarantine notice; and
  - (b) where the proposed movement is the subject of approval given under regulation 7, the written approval.

Penalty: a fine of \$2 000.

*[Regulation 5 amended in Gazette 8 Nov 1985 p. 4297;  
17 Dec 2010 p. 6426.]*

**6. Marking**

- (1) An inspector or authorised person may, in writing, direct a person having control of quarantined land to label, mark, brand, or otherwise identify, in a manner specified in the direction, any thing so specified, or of a class so specified, the movement of which is the subject of the property quarantine notice, in respect of the land.
- (2) A person shall comply with a direction given under subregulation (1).  
Penalty: a fine of \$2 000.
- (3) Where a person fails to comply with a direction given under subregulation (1) an inspector or authorised person may carry out, or cause to be carried out, the labelling, marking, branding, or other identification required by the direction and, without prejudice to any proceedings for an offence against subregulation (2), or to the recovery of any penalty under that subregulation, the Director General on behalf of the State may recover as a debt due to the State from the person who failed to comply with the direction the expenses incurred by an inspector or authorised person under this subregulation as a result of his failure.

*[Regulation 6 amended in Gazette 17 Dec 2010 p. 6426-7.]*

**7. Approval for movement**

- (1) Where a person wishes to move any thing from quarantined land but to do so would not be in accordance with the property quarantine notice applying to the land and there is no general exemption under regulation 9 pursuant to which the thing could be moved, that person may apply to an inspector or authorised person for approval under this regulation to move the thing.

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- (2) An application for approval under this regulation shall state —
  - (a) the date of the property quarantine notice;
  - (b) the description of the quarantined land;
  - (c) the declared plants or declared animals by reason of the presence, or suspected presence, of which the land is under quarantine;
  - (d) the description and quantity of the thing proposed to be moved;
  - (e) the time when and the place to which, the thing is proposed to be moved;
  - (f) where property in the thing is to be disposed of, the name, address and occupation of the person to acquire the property;
  - (g) the use to which the thing is proposed to be put; and
  - (h) the proposed method of transportation and precautions to be adopted to prevent the spread of the declared plants, or declared animals, as the case may be.
- (3) An inspector or authorised person to whom application is made for approval under this regulation may —
  - (a) request that such further information be provided as may appear to him to be relevant;
  - (b) grant approval in the terms of the application;
  - (c) where he sees fit, grant approval on such conditions as to him appear appropriate for the purposes of the Act;
  - (d) reject the application.
- (4) Without limiting the other types of conditions that may be imposed in granting approval under this regulation, such approval may be granted subject to a condition —
  - (a) that the thing to which the approval relates be marked, labelled or otherwise identified in a manner specified in the approval;



- (b) where the property quarantine notice was given by reason of the presence, or suspected presence, of declared plants, that any animals or things specified in the approval, or of a class specified in the approval, be inspected in the manner specified in the approval and, where they are found to, or it appears that they are likely to, carry or contain prohibited material or declared plants, they be subjected to cleansing treatment specified in the approval or be disposed of in a manner so specified.

**8. Entry upon quarantined land**

- (1) Where a property quarantine notice is given by reason of the presence, or suspected presence, of declared plants on the land to which the property quarantine notice relates, the notice may, in addition to any other requirement, require that —
  - (a) persons of a class specified in the notice; or
  - (b) persons other than persons of a class specified in the notice,

shall not enter upon any part of the quarantined land, other than a residence on the quarantined land or the usual access through the quarantined land to any such residence, except pursuant to and in accordance with the written approval of an inspector or authorised person and the requirement may be limited by reference to the time or purpose of the entry or so that it applies only if conditions specified in the notice have not been complied with.

- (2) A person shall not enter upon quarantined land contrary to a property quarantine notice unless he has first obtained the written approval of an inspector or authorised person to do so and he acts in accordance with any conditions or limitations to which such approval may be expressed to be subject.

Penalty: a fine of \$2 000.

*[Regulation 8 amended in Gazette 26 Jan 1990 p. 650; 17 Dec 2010 p. 6426.]*

**9. Exemption from quarantine**

- (1) The Director General may by notice published —
- (a) in the *Gazette*; and
  - (b) at least twice in a newspaper circulating generally in the area where the quarantined land to which the notice relates is situated, so that an interval of at least a week is allowed to elapse between each such publication,

generally exempt persons from such of the requirements of a property quarantine notice or a notice under regulation 10 as may be specified in the notice of exemption, and in the notice may specify a time or times during which, and conditions subject to which, the exemption shall apply.

- (2) The Director General may, by a subsequent notice published in accordance with subregulation (1), vary or revoke a notice under subregulation (1) which shall thereupon have effect as so varied, or cease to have effect, as the case may be.

*[Regulation 9 amended in Gazette 17 Dec 2010 p. 6426-7.]*

**10. Property quarantine areas**

- (1) The Director General may, by notice published —
- (a) in the *Gazette*; and
  - (b) at least twice in a newspaper circulating generally in the area where the land to which the notice relates is situated, so that an interval of at least a week is allowed to elapse between each publication,

declare land in or upon which declared plants or declared animals are, or are suspected to be, present, to constitute a property quarantine area.

- (2) A notice published under subregulation (1) shall state that for the purposes of these regulations land in the property quarantine area is quarantined land, shall specify the declared plants or declared animals that are, or are suspected to be, present in or

upon the land to which it applies, and the time from which the notice applies, and may contain such requirements as may be contained in a property quarantine notice.

- (3) Where a notice is published under subregulation (1) in respect of land, for the purposes of these regulations each person who is the owner or occupier of any of the land is deemed to have been served with a property quarantine notice, in the same terms as the notice under subregulation (1), specifying the land in the property quarantine area of which he is the owner or occupier as the land to which the property quarantine notice applies.
- (4) A notice published under subregulation (1) may be revoked —
  - (a) by the Director General by a subsequent notice so published; or
  - (b) in so far as it applies in relation to any specified land within the property quarantine area, by the Director General, or an officer authorised in that behalf by the Director General, by notice in writing served upon the owner and the occupier of that land,

whereupon the land in relation to which the revocation applies ceases to be quarantined land within the meaning of these regulations.

*[Regulation 10 amended in Gazette 17 Dec 2010 p. 6426-7.]*

## **11. Appeal**

- (1) A person aggrieved by a decision under these regulations relating to —
  - (a) the giving of, or any requirement of, a property quarantine notice in respect of land;
  - (b) any approval or exemption sought or given for the purposes of these regulations;
  - (c) the continued application of a property quarantine notice, or any requirement thereof, in respect of land;
  - (d) a direction given under regulation 6;

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- (e) a condition to which any approval or exemption is given for the purposes of these regulations;
- (f) the constitution or continuation of a property quarantine area,

may appeal to the Minister against the decision, in writing, identifying the decision appealed against and setting out the grounds upon which he is aggrieved.

- (2) In determining an appeal under subregulation (1) the Minister may reverse, vary, or confirm the decision against which the appeal is made, and effect shall be given to the determination of the Minister which shall be final.

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Regulations 1981**

**Notes**

- <sup>1</sup> This is a compilation of the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981* and includes the amendments made by the other written laws referred to in the following table <sup>+a2</sup>.

**Compilation table**

Citation	Gazettal	Commencement
<i>Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981</i>	8 May 1981 p. 1459-62	8 May 1981
<i>Agriculture and Related Resources Protection (Property Quarantine) Amendment Regulations 1985</i>	8 Nov 1985 p. 4297	8 Nov 1985
<i>Agriculture and Related Resources Protection (Property Quarantine) Amendment Regulations 1990</i>	26 Jan 1990 p. 650	26 Jan 1990
<b>Reprint of the Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981 as at 14 Sep 2001</b> (includes amendments listed above)		
<i>Agriculture and Related Resources Protection (Property Quarantine) Amendment Regulations 2003</i>	11 Jul 2003 p. 2739-40	11 Jul 2003
<i>Agriculture and Related Resources Protection (Property Quarantine) Amendment Regulations 2005</i>	8 Feb 2005 p. 647	8 Feb 2005
<i>Agriculture and Related Resources Protection (Repeals and Amendments) Regulations 2010 Pt. 10</i>	17 Dec 2010 p. 6403-32	18 Dec 2010 (see r. 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**

Citation	Gazettal	Commencement
<del>These regulations were repealed by the <i>Biosecurity and Agriculture Management Regulations 2013</i> r. 137(g), <del>138</del> as at 1 May 2013 (see r. 2(b) and <del>142</del> <sup>2</sup><i>Gazette</i> 5 Feb 2013 p. 823).</del>	<del>5 Feb 2013 p. 465-5</del>	<del>Deleted Cells</del>  <del>Deleted Cells</del>

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<sup>2</sup> ~~On the date as at which this compilation was prepared, the~~ [The Biosecurity and Agriculture Management Regulations 2013](#) r. ~~137(g)~~, 138 and 142 ~~had not come into operation. They~~ read as follows:

**~~137. Regulations repealed~~**

~~These regulations are repealed:~~

- ~~(g) *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981*;~~

**138. Fees and expenses**

On and from the commencement day —

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

Penalty: a fine of \$10 000.

**142. *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981***

- (1) In this regulation —  
***repealed regulations*** means the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981* repealed under regulation 137(g).
- (2) On and from the commencement day —
  - (a) a quarantine notice served under regulation 3 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a quarantine notice given under regulation 56 of these regulations;
  - (b) any application for approval made under regulation 7 of the repealed regulations and not determined before the commencement day is taken to be an application under regulation 67 of these regulations;
  - (c) any approval given under regulation 7 of the repealed regulations and of effect immediately before the

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- commencement day has effect as if it were an approval given under regulation 67 of these regulations;
- (d) any general exemption granted under regulation 9 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a general exemption granted under regulation 71 of these regulations;
  - (e) any declaration of a property quarantine area under regulation 10 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a declaration of a quarantine area under regulation 60 of these regulations.