



Western Australia

**Biosecurity and Agriculture Management  
Industry Funding Scheme (Grains) Regulations  
2010**

Compare between:

[03 Mar 2012, 00-c0-05] and [25 Dec 2020, 00-d0-00]



Biosecurity and Agriculture Management Act 2007

# Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010*<sup>+</sup>.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

### 3. Terms used

In these regulations —

**Account** means the Grains, Seeds and Hay Industry Declared Pest Control and Compensation Account established by regulation 6(1);

**appointments committee** means the appointments committee established by [the \*Biosecurity and Agriculture Management Regulations 2013\* regulation 4;129B\(1\)](#);

***approved programme*** means a programme or measure approved by the Industry Management Committee under regulation 19(1);

***area of operation***, at any time, means an area of the State in which the Scheme operates at that time in accordance with a declaration under regulation 13(1)(a);

***chargeable payment***, in relation to a chargeable transaction, means a payment due by the registered receiver to the grower in respect of chargeable produce delivered or sold and, if under the terms of the chargeable transaction more than one such payment is due, means the first such payment;

***chargeable produce*** means qualifying produce sold or delivered to a registered receiver in a chargeable transaction;

***chargeable transaction*** means —

- (a) the delivery of qualifying produce by or on behalf of a grower to or at the direction of a registered receiver for the purpose of storing, handling or marketing the qualifying produce on behalf of the grower; or
- (b) the sale of qualifying produce by a grower to a registered receiver;

***contributing participant***, for a financial year, means a participant for that financial year who is not a full participant for that financial year;

***full participant***, for a financial year, means a participant for that financial year who —

- (a) has not opted out of the Scheme under regulation 17(1) for any previous financial year; or
- (b) has since last opting out of the Scheme under regulation 17(1) —
  - (i) been a non-participant for only one financial year; and
  - (ii) been a contributing participant for the 2 consecutive financial years succeeding that financial year;

or

- (c) has since last opting out of the Scheme under regulation 17(1) —
- (i) been a non-participant for a period of 2 or more consecutive financial years; and
  - (ii) been a contributing participant for the 3 consecutive financial years succeeding that period;

**grower** means a grower of produce;

**GSH industry** means the grains, seeds and hay production sector of agricultural activity in the State;

**hay** ~~includes~~ does not include straw;

**Industry Management Committee** means the Grains, Seeds and Hay Industry Funding Scheme Management Committee established by regulation 8;

**non-participant**, for a financial year, means a grower who opts out of the Scheme for that financial year under regulation 17(1);

**participant**, for a financial year, means a grower who does not opt out of the Scheme for that financial year under regulation 17(1);

**pest control requirement**, in relation to a grower, means —

- (a) a direction to the grower to comply with a specified code of practice or to take specified measures given to the grower in a pest control notice under section 31 of the Act; or
- (b) an obligation imposed on the grower by a management plan under section 45 of the Act; or
- (c) an obligation imposed on the grower by regulations made under the Act for the purposes of pest control;

**produce** means grain, seed or hay grown in the State;

**produce receiver** means a person who, in connection with a business carried on by that person in the State —

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- (a) receives produce for the purpose of storing, handling and marketing it on behalf of the growers; or
- (b) purchases produce from growers;

**qualifying produce** means grain, seed or hay produced in an area of operation;

**qualifying receiver**, for a given financial year, means a produce receiver who —

- (a) receives or purchases 500 tonnes or more of produce in the given financial year; or
- (b) received or purchased 500 tonnes or more of produce in the financial year immediately preceding the given financial year, and expects to receive or purchase 500 tonnes or more of produce in the given financial year;

**register** means the register maintained by the Director General under regulation 14(2)(a);

**registered receiver** means a person whose name is for the time being included in the register;

**review panel** means the review panel established by [the Biosecurity and Agriculture Management Regulations 2013](#) regulation [24;129D\(1\)](#);

**Scheme** means the scheme constituted by Part 4;

**specified pest** means a declared pest which is specified in Schedule 1.

[Regulation 3 amended: Gazette 2 Mar 2012 p. 853-4;  
[SL 2020/255 r. 17.](#)]

~~[4. — **Appointments Committee**~~

- ~~— (1) — A appointments committee is established to advise on the appointment of members of the Industry Management Committee under regulation 9 and of members of the review panel under regulation 24.~~

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- ~~(2) The appointments committee is to consist of at least 2 persons appointed by the Minister.~~
- ~~(3) The Minister is to appoint~~
- ~~(a) at least one member of the appointments committee with the agreement of the Western Australian Farmers Federation (Inc.); and~~
  - ~~(b) at least one member of the appointments committee with the agreement of the Pastoralists and Graziers Association of Western Australia (Inc.).~~
- ~~(4) Every person who is appointed to the appointments committee other than under subregulation (3) is to be a person who, in the opinion of the Minister~~
- ~~(a) is familiar with the interests of farmers, or has knowledge and experience enabling that person to understand those interests; or~~
  - ~~(b) has a financial interest in the agricultural sector of the economy of the State; or~~
  - ~~(c) has extensive or special experience in the agricultural sector of the economy of the State.~~
- ~~(5) On the appointment of a member of the appointments committee, the Minister is~~
- ~~(a) to specify that the member is appointed for the purpose of advising on a particular appointment under regulation 9 or regulation 24; or~~
  - ~~(b) to set a term of office, not exceeding 3 years, for that member.~~
- ~~(6) A member of the appointments committee ceases to hold office~~
- ~~(a) in the case of a member appointed for the purpose of advising on a particular appointment, when that appointment has been made; and~~

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- ~~———— (b) in the case of a member for whom a term of office has been set, on the expiry of that term of office; and~~
- ~~———— (c) in any case —~~
- ~~———— (i) upon retiring from office by written notice to the Minister; or~~
- ~~———— (ii) upon being removed from office by the Minister by written notice; or~~
- ~~———— (iii) upon death.~~
- ~~———— (7) A member of the appointments committee whose term of office expires may, if qualified for appointment under subregulation (3) or (4), be immediately reappointed.~~

~~**5. Remuneration and allowances for members of appointments committee**~~

~~———— Each member of the appointments committee is to be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines in the case of that member.~~

~~———— *[Regulation 5 amended: Gazette 11 Feb 2011 p. 506 7.*~~  
~~*Deleted: SL 2020/255 r. 18.]*~~



## **Part 2 — Grains, Seeds and Hay Industry Declared Pest Control and Compensation Account**

### **6. Grains, Seeds and Hay Industry Declared Pest Control and Compensation Account established**

- (1) An agency special purpose account called the Grains, Seeds and Hay Industry Declared Pest Control and Compensation Account is established under the *Financial Management Act 2006* section 16 for the GSH industry.
- (2) The Director General is to maintain and administer the Account in consultation with the Industry Management Committee.

### **7. Investment of the Account**

Any moneys standing to the credit of the Account may, until required for the purposes of the Act, be temporarily invested by the Director General in the same manner as public moneys standing to the credit of the Public Bank Account referred to in the *Financial Management Act 2006* section 11 may be invested, and all interest derived from that investment is to be credited to the Account.

### **Part 3 — Management committee**

**8. Establishment of Industry Management Committee**

A Grains, Seeds and Hay Industry Funding Scheme Management Committee is established for the Account.

**9. Appointment and composition of the Industry Management Committee**

- (1) The Industry Management Committee is to consist of at least 5, and not more than 7, persons appointed by the Minister after consulting, and taking account of, the views of the appointments committee.
- (2) Subject to subregulation (3), each person appointed by the Minister on or after 1 July 2010 to be a member of the Industry Management Committee is to be a full participant.
- (3) The Minister may appoint a person who is not a full participant to be a member of the Industry Management Committee if —
  - (a) in the opinion of the Minister, the person appointed —
    - (i) is familiar with the interests of growers, or has knowledge or experience enabling that person to understand those interests; or
    - (ii) has a financial interest in the GSH industry; or
    - (iii) has extensive or special experience in the GSH industry;
  - and
  - (b) immediately after the appointment, there will not be more than 2 members of the Industry Management Committee who are not full participants.
- (4) On the appointment of a member of the Industry Management Committee, the Minister is to set a term of office, not exceeding 3 years, for that member.

- (5) A member of the Industry Management Committee ceases to hold office —
- (a) on the expiry of the member's term of office; or
  - (b) upon retiring from office by written notice to the Minister; or
  - (c) upon being removed from office by the Minister by written notice; or
  - (ca) if the member was a participant at the time of appointment — at the beginning of the financial year for which the member opts out of the Scheme under regulation 17(1); or
  - (d) upon death.
- (6) Subject to subregulation (7), a member of the Industry Management Committee whose term of office expires may, if qualified for appointment under subregulation (2) or (3), be immediately reappointed.
- (7) A member of the Industry Management Committee who is reappointed in accordance with subregulation (6), and whose term of office set on reappointment expires, may not be reappointed until at least one year has passed.

[Regulation 9 amended: SL 2020/255 r. 19.]

**10. Remuneration and allowances for members of Industry Management Committee**

Each member of the Industry Management Committee is to be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines in the case of that member.

*[Regulation 10 amended: Gazette 11 Feb 2011 p. 506-7.]*

**11. Functions of Industry Management Committee**

- (1) The Industry Management Committee is to —
  - (a) advise the Director General on the administration of the Account; and
  - (b) exercise the other functions conferred on it by Part 4.
- (2) The Industry Management Committee is from time to time, and at least once in each financial year, to consult growers, directly or through representative organisations or both, for the purpose of ascertaining views in the GSH industry concerning the operation of the Scheme and the performance by the Industry Management Committee of its functions under these Regulations.
- (3) The Industry Management Committee is to report annually, and more frequently if directed by the Minister, on —
  - (a) the operation and effectiveness of the Scheme; and
  - (b) any other matters relating to the operation of these regulations that the Minister specifies.
- (4) The Industry Management Committee is to —
  - (a) give the Minister a copy of every report prepared under subregulation (3); and
  - (b) make every such report available to participants.

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## **Part 4 — Grains, Seeds and Hay Industry Declared Pest Control and Compensation Funding Scheme**

### **Division 1 — Contributions to the Account**

#### **12. Term used: notice**

In this Division —

*notice* means, except in regulation 13, a notice in a form required by the Director General or, if the Director General has made no requirement as to form, in a form acceptable to the Director General.

#### **13. Area of operation and rate of contributions**

- (1) In respect of the financial year 2010-11 and each subsequent financial year the Minister is to declare, on the recommendation of the Industry Management Committee, by notice published in the *Gazette* before the start of the financial year —
  - (a) the area or areas of the State in which the Scheme is to operate; and
  - (b) the rate or rates at which contributions are to be paid under regulation 15.
- (2) The rate or rates of grower contributions declared under subregulation (1)(b) may vary as between different classes of produce, and between different areas in which the Scheme operates during the year in question.
- (3) The Minister may declare a nil rate of contribution under subregulation (1)(b) in respect of all produce or any class of produce, or in respect of any area or all areas in which the Scheme operates.
- (4) The Minister may, on the recommendation of the Industry Management Committee, amend or revoke a declaration made under subregulation (1) by notice published in the *Gazette*.

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- (5) In making a recommendation for a declaration under subregulation (1)(b) or for an amendment or revocation under subregulation (4), the Industry Management Committee is to have regard to the estimated costs of making payments out of the Account during the financial year in respect of the current approved programmes.
- (6) A notice published under subregulation (1) or (4) which declares or amends a rate of contributions is to indicate the estimated proportion of the contribution which the Industry Management Committee projects is likely to be applied to fund payments relating to each specified pest.
- (7) If in respect of any financial year no notice is published under subregulation (1) before the start of the financial year then —
  - (a) the Director General is to notify the Industry Management Committee that no notice has been published as required by subregulation (1); and
  - (b) subject to amendment or revocation by notice under subregulation (4) the Minister is taken to have declared that —
    - (i) the Scheme operates in the area or areas of the State in which it operated on the last day of the immediately preceding financial year; and
    - (ii) contributions are to be paid at the rate or rates at which they were to be paid on the last day of the immediately preceding financial year.

**14. Registration of qualifying receivers**

- (1) Every person who becomes a qualifying receiver for any financial year must, within 30 days of becoming a qualifying receiver, give the Director General notice stating that the person is a qualifying receiver, and setting out the person's name and principal place of business in the State, and such other details as the Director General may require.

Penalty [for this subregulation](#): a fine of \$10 000.

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- (2) The Director General is to —
- (a) maintain a register of qualifying receivers; and
  - (b) enter in the register the name, principal place of business and other details of every qualifying receiver notified under subregulation (1).
- (3) If the name, principal place of business in the State or other registered details of a registered receiver changes, the registered receiver must, within 30 days, give the Director General notice of the changes.
- Penalty [for this subregulation](#): a fine of \$10 000.
- (4) Upon receipt of a notice under subregulation (3) the Director General is to correct the entries in the register accordingly.
- (5) If a registered receiver satisfies the Director General that it has ceased to be a qualifying receiver, the Director General is to remove from the register the name, principal place of business in the State and other registered details of that registered receiver.
- (6) The Director General is to publish the register on, or make it accessible through, the electronic site maintained under section 159 of the Act.

[\[Regulation 14 amended: SL 2020/255 r. 25.\]](#)

**15. Liability to pay contributions**

- (1) Every grower who completes a chargeable transaction is to pay a contribution to the Account in accordance with this Scheme.
- (2) The amount of the contribution payable in respect of a chargeable transaction is to be calculated by reference to the rate of charge declared at the time the chargeable payment in relation to that chargeable transaction is due.

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**16. Deduction and remittance of contributions**

- (1) When making the chargeable payment in respect of a chargeable transaction, the registered receiver is to —
- (a) deduct the amount of the contribution; and
  - (b) give the grower a written statement in such form as the Director General may require of the amount deducted.

Penalty [for this subregulation](#): a fine of \$20 000.

- (2) Within 30 days of the end of each calendar month, a registered receiver is to —
- (a) pay to the Director General all amounts it has deducted during that calendar month in accordance with subregulation (1); and
  - (b) give to the Director General a statement in writing in such form as the Director General may require, setting out each amount it has deducted, and such details of each chargeable transaction in respect of which it has made deductions as the Director General may require.

Penalty [for this subregulation](#): a fine of \$20 000.

- (3) The payment by a registered receiver to the Director General in accordance with subregulation (2) of any amount which has been deducted from a chargeable payment is, to the extent of that amount, a partial discharge of the registered receiver's obligation to make the chargeable payment to the grower and the amount is taken for the purposes of this Scheme to have been paid to the Account by the grower.
- (4) In relation to each chargeable transaction into which a registered receiver enters, the registered receiver is to keep for at least 5 years records and accounts showing —
- (a) the nature of the transaction; and
  - (b) the identity of the grower with whom the registered receiver transacted; and



- (c) the nature and amount of the chargeable produce delivered or sold in the transaction; and
  - (d) the amount of charge deducted under subregulation (1) in connection with the transaction; and
  - (e) the amount and date of any payment made to the Director General under subregulation (2) in respect of the transaction.
- (5) The Director General may appoint an officer to inspect, examine and audit records and accounts kept by a registered receiver under subregulation (4), and for that purpose —
- (a) the appointed officer may at any time require the production of records and the provision of information; and
  - (b) the registered receiver is to furnish the appointed officer with such records and information as ~~he~~[the officer](#) may require.

[\[Regulation 16 amended: SL 2020/255 r. 20 and 25.\]](#)

## **17. Opting out of the Scheme**

- (1) A grower may opt out of the Scheme for any financial year by notice given to the Director General in accordance with subregulation (2).
- (2) A notice under subregulation (1) is —
  - (a) to specify the financial year to which it relates; and
  - (b) to be received by the Director General —
    - (i) where the notice specifies the financial year 2010-11, between 1 June 2010 and 31 July 2010; and
    - (ii) where the notice specifies any other financial year, between 1 June and 30 June in the immediately preceding financial year.

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**18. Refund of contributions**

- (1) A grower who has opted out of the Scheme under regulation-[17\(1\)](#) for [a](#) specified financial year may by notice given to the Director General before the 31 July following the end of the specified financial year request a refund of any contribution paid on behalf of that grower during that financial year.
- (2) A notice under subregulation (1) is —
  - (a) to set out details of the contributions the refund of which is requested; and
  - (b) to be accompanied by evidence acceptable to the Director General of the payment of the contributions.
- (3) If the Director General receives a notice under subregulation (1) and is satisfied that the contributions set out in the notice were paid on behalf of the grower —
  - (a) the Director General is to notify the Industry Management Committee of the receipt of the notice and of the amount of contributions set out in the notice; and
  - (b) the Industry Management Committee is to direct the Director General to repay to the grower out of the Account the amount of the ~~those~~ contributions.

[\[Regulation 18 amended: SL 2020/255 r. 21.\]](#)

**Division 2 — Payments from the Account**

**19. Approved programmes**

- (1) For the purposes of the Scheme the Industry Management Committee may approve programmes and other measures for —
  - (a) the control of a specified pest; or
  - (b) the advancement and improvement of control measures for a specified pest.
- (2) The terms of every approval under subregulation (1) —

- (a) are to specify an amount which may be provided out of the Account towards the costs of the programme or measure approved; and
  - (b) may designate particular pest control requirements, control measures, or research, development or other activities which constitute the approved programme or part of it and specify —
    - (i) the amount or amounts which may be provided out of the amount specified under paragraph (a) towards the costs of those requirements, measures and activities; or
    - (ii) the basis on which such amounts are to be calculated;
- and
- (c) may specify further terms and conditions subject to which any amount is payable.

**20. Payments in respect of costs of approved programmes**

- (1) Subject to subregulations (2) and (3) and to regulation 23, the Director General is to make payments out of the Account towards the costs of approved programmes.
- (2) The total of the payments made out of the Account towards the costs of an approved programme is not to exceed the amount specified in respect of that approved programme under regulation 19(2)(a).
- (3) Every payment made out of the Account towards the costs of an approved programme is to be paid in accordance with any terms and conditions specified in the approval of the approved programme.

**21. Payments in respect of losses**

- (1) Subject to subregulation (2) and (3) and to regulation 23, the Director General is on the approval of the Industry Management

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Committee to make payments of compensation out of the  
Account to a person who has suffered loss —

- (a) as a result of the person's produce or other related thing  
being infected or infested with a specified pest; or
  - (b) as a result of actions or measures taken under the Act to  
control a specified pest; or
  - (c) as a result of actions or measures taken under an  
approved programme.
- (2) No payment shall be made under subregulation (1) in respect of  
any indirect, incidental or consequential loss, but only in respect  
of losses arising directly from —
- (a) infection or infestation with a specified pest; or
  - (b) actions or measures taken to control a specified pest; or
  - (c) actions or measures taken under an approved  
programme.
- (3) The Industry Management Committee is not to approve a  
payment under subregulation (1) to a person who is not a  
grower unless it is satisfied that it is in the best interests of  
participants to make the payment.
- (4) The amount of a payment under subregulation (1) is not to  
exceed the amount of the loss incurred.
- (5) The Industry Management Committee —
- (a) subject to subregulation (4), is to specify the amount of  
any payment out of the Account under subregulation (1)  
or the basis upon which the amount is to be determined,  
and may specify different amounts or bases for  
payments to growers and for payments to persons who  
are not growers; and
  - (b) may specify that the payment of compensation is  
conditional upon the recipient undertaking to perform  
stated actions or implement stated measures for the  
control of the specified pest; and

- (c) may specify further terms and conditions to which the payment is to be subject.

*[Regulation 21 amended: Gazette 2 Mar 2012 p. 854.]*

**22. Payments in respect of destroying animals or products**

- (1) Subject to subregulation (2) and to regulation 23, the Director General is on the approval of the Industry Management Committee to make payments out of the Account to a person towards the costs and expenses of destroying produce or other related thing under the Act —
  - (a) because they are infected or infested with a specified pest; or
  - (b) as a result of other actions or measures taken under the Act to control a specified pest.
- (2) The Industry Management Committee is not to approve a payment under subregulation (1) to a person who is not a grower unless it is satisfied that it is in the best interests of participants to make the payment.
- (3) The amount of a payment under subregulation (1) is not to exceed the amount of the costs and expenses incurred.
- (4) The Industry Management Committee —
  - (a) subject to subregulation (3), is to specify the amount of any payment out of the Account under subregulation (1) or the basis upon which the amount is to be determined, and may specify different amounts or bases for payments to growers and for payments to persons who are not growers; and
  - (b) may specify that the payment of compensation is conditional upon the recipient undertaking to perform stated actions or implement stated measures for the control of the specified pest; and
  - (c) may specify further terms and conditions to which the payment is to be subject.

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**23. General provisions regarding payments**

- (1) No payment is to be made under regulation 20, 21 or 22 to a grower who is not a full participant for the financial year in which the losses, costs or expenses in respect of which the payment is made are incurred.
- (2) No payment is to be made under regulation 20, 21 or 22 to a person who —
  - (a) has failed to pay any contribution which the person is obliged to pay under this Scheme; or
  - (b) has been convicted of an offence of failing to comply with a requirement under a written law to report the presence or suspected presence of the specified pest which is the subject of the actions or measures giving rise to a claim for payment; or
  - (c) has failed to comply with any pest control requirement relating to that specified pest, or to perform any action or implement any measure which the person has undertaken to perform or implement under regulation 21(5)(b) or 22(4)(b).
- (3) No payment is to be made under regulation 20, 21 or 22 unless application for the payment has been made in any form, and in accordance with any procedures, and within any time limits, which the Industry Management Committee may have established.
- (4) Within 3 months of receiving an application for a payment under regulation 20, 21 or 22, the Director General is to notify the person making the application of —
  - (a) what payment, if any, is to be made; and
  - (b) if no payment is to be made, whether this is due to —
    - (i) the Industry Management Committee not having approved the making of a payment; or
    - (ii) another stated reason.

**~~24. Review of applications for compensation and reimbursement~~**

- ~~(1) A review panel is established for the Scheme.~~
- ~~(2) The review panel is to consist of at least 3 persons appointed by the Minister after consulting, and taking account of, the views of the appointments committee.~~
- ~~(3) Subject to subregulation (4), each person appointed by the Minister on or after 1 July 2010 to be a member of the review panel is to be a full participant.~~
- ~~(4) The Minister may appoint a person who is not a full participant to be a member of the review panel if—~~
- ~~(a) in the opinion of the Minister, the person appointed—~~
- ~~(i) is familiar with the interests of growers, or has knowledge or experience enabling that person to understand those interests; or~~
- ~~(ii) has a financial interest in the GSH industry; or~~
- ~~(iii) has extensive or special experience in the GSH industry;~~
- ~~and~~
- ~~(b) immediately after the appointment, there will not be more than one member of the review panel who is not a full participant.~~
- ~~(5) No member of the Industry Management Committee is to be appointed to be a member of the review panel.~~
- ~~(6) On the appointment of a member of the review panel, the Minister is to set a term of office, not exceeding 3 years, for that member.~~
- ~~(7) A member of the review panel ceases to hold office—~~
- ~~(a) on the expiry of the member's term of office; or~~

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- ~~— (b) — upon being appointed under regulation 9 to be a member of the Industry Management Committee; or~~
- ~~— (c) — upon retiring from office by written notice to the Minister; or~~
- ~~— (d) — upon being removed from office by the Minister by written notice; or~~
- ~~— (e) — upon death.~~
- ~~— (8) — Subject to subregulation (9), a member of the review panel whose term of office expires may, if qualified for appointment under —~~
  - ~~— (a) — subregulation (3) or (4); and~~
  - ~~— (b) — subregulation (5),~~
- ~~— be immediately reappointed.~~
- ~~— (9) — A member of the review panel who is reappointed in accordance with subregulation (8), and whose term of office set on reappointment expires, may not be reappointed until at least one year has passed.~~
- ~~— (10) — Each member of the review panel is to be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines in the case of that member.~~
- ~~— (11) — Within one month of receiving notification under regulation 23(4), a grower~~An applicant ~~who is dissatisfied with the outcome of an application which he or she~~that the applicant ~~has made may by notice to the Director General for a payment under regulation 20, 21 or 22 may~~ request a review of the application: under the Biosecurity and Agriculture Management Regulations 2013 regulation 129F(2).
- ~~— (12) — Upon receipt of a request for review under subregulation (11), the Director General is to refer the original application to the review panel.~~



- ~~(13) The review panel is to review the application and its outcome and must, within 3 months of the referral of the application, either —~~
- ~~(a) confirm the outcome as notified to the grower; or~~
  - ~~(b) vary the outcome as notified to the grower, in which event, subject to the other provisions of the Scheme, the Director General is to make payment in accordance with the outcome of the application as varied by the review panel.~~
- ~~(14) The decision of the review panel under subregulation (13) is final and without appeal.~~

~~[Regulation 24 23 amended: *Gazette 11 Feb 2011*  
p. 506-7 [SL 2020/255 r. 22.](#)]~~

~~[24. Deleted: [SL 2020/255 r. 23.](#)]~~

## **25. Purchase of capital assets out of the Account**

With the prior approval of the Industry Management Committee the Director General may purchase out of the Account capital assets required in connection with the purposes mentioned in regulations 20, 21 and 22.

## **26. Other payments out of the Account**

- (1) The Director General may apply the Account —
- (a) in refunding contributions under regulation 18; and
  - (b) in paying any amount required to be paid under section 146(3) of the Act and interest on that amount; and
  - (c) in repaying an amount charged to the Consolidated Account and used for the purpose of controlling any specified pest; and
  - (d) [subject to subregulation \(3\)](#), in paying —

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- (i) remuneration and allowances for members of the appointments committee determined under ~~regulation 5~~the Biosecurity and Agriculture Management Regulations 2013 regulation 129C(4) to the extent that the remuneration and allowances are costs and expenses of administering the Account; and
  - (ii) remuneration and allowances for members of the Industry Management Committee determined under regulation 10; and
  - (iii) remuneration and allowances for members of the review panel determined under ~~regulation 24~~and the Biosecurity and Agriculture Management Regulations 2013 regulation 129E(5) to the extent that the remuneration and allowances are costs and expenses of administering the Account;  
and
    - (e) subject to subregulation (3), in paying the cost of the review for which regulation 27 provides; and
    - (f) subject to subregulation (3), in paying or reimbursing ~~the~~any other costs and expenses of administering the Account.
- (2) The Director General may apply the Account under subregulation (1)(c) even though the amount to be repaid was charged to the Consolidated Account —
- (a) before these regulations were made; or
  - (b) before the specified pest concerned was specified in Schedule 1.
- (3) The amount of costs or expenses paid under subregulation (1)(d) to (f) must be approved by the Industry Management Committee.

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- (4) The Director General must notify the Industry Management Committee of any amount applied under subregulation (1)(b), ~~(e)~~ or (ec) within ~~one~~ 1 month after application.

*[Regulation 26 amended: SL 2020/255 r. 24.]*

## **Part 5 — Miscellaneous**

### **27. Review of Scheme**

- (1) In this regulation —  
*independent consultant* means a person —
  - (a) who is not employed by the State, by a State agency or by an organisation representing either persons participating in the GSH industry or persons participating in a sector of the GSH industry; and
  - (b) who in the opinion of the Industry Management Committee is appropriately qualified to conduct the review for which this regulation provides.
- (2) As soon as is reasonably practicable after 30 June 2011 or such later date as the Industry Management Committee may determine, the Industry Management Committee is to commission one or more independent consultants —
  - (a) to undertake a review of these Regulations, of the operation of the Scheme and of the benefits to the GSH industry of payments made out of the Account; and
  - (b) to prepare a report of the review.
- (3) As soon as is reasonably practicable after receiving the report of the review, the Industry Management Committee is to —
  - (a) give a copy of the report to the Minister; and
  - (b) make the report available to participants.

### **28. Termination and winding up of Scheme**

- (1) Subject to subregulation (2), the Scheme terminates on 30 June 2015.
- (2) If the Minister considers, after consulting —
  - (a) the Industry Management Committee; and

- (b) the public authorities and any other persons, or organisations representing persons, which or who appear to the Minister —
  - (i) to take part in implementing the Scheme; or
  - (ii) to incur expenses in complying with the Scheme; or
  - (iii) to be affected, or interested, in a significant way by the operation of the Scheme,

that the continuation of the Scheme is likely to be of benefit to the GSH Industry, the Minister may declare by notice published in the *Gazette* during the financial year beginning on 1 July 2014 that the Scheme is not to terminate on 30 June 2015.

- (3) The Minister may at any time, after consulting the Industry Management Committee, declare by notice published in the *Gazette* that the Scheme terminates on a date specified in the notice.
- (4) On termination of the Scheme —
  - (a) the Account is to be closed, and is not to be operated upon except as provided by this regulation; and
  - (b) contributions payable under regulation 15 but unpaid as at termination remain payable and, on payment, are to be credited to the Account; and
  - (c) other than as provided in paragraph (b), no further contributions are payable under regulation 15; and
  - (d) refunds of contributions which as at termination are payable under regulation 18 but unpaid continue to be payable and, on payment, are to be debited to the Account; and
  - (e) applications for payments out of the Account made under regulation 20, 21 or 22 which have not yet been determined are to be determined as though the Scheme

had not terminated and any resulting payments made and debited to the Account; and

- (f) after termination, growers may apply within such time limit as the Industry Management Committee may specify for payments under regulation 20, 21 or 22 in respect of actions or measures taken before termination, and such applications are to be determined as though the Scheme had not terminated and any resulting payments made and debited to the Account; and
- (g) any amount required to be paid under section 146(3) of the Act is to be paid out of the Account, together with interest on that amount; and
- (h) the Director General is on the approval of the Industry Managing Committee to apply any residual balance standing to the credit of the Account in a manner which the Industry Management Committee considers to be for the benefit of participants.

*[Regulation 28 amended: Gazette 2 Mar 2012 p. 854.]*

**29.      Expiry of the regulations**

- (1) When, after the termination, the Industry Management Committee and the Director General report to the Minister that the entire balance of the Account has been applied in accordance with regulation 28(4), the Minister is to publish a notice in the *Gazette* stating —
  - (a) that the Scheme has been terminated; and
  - (b) that the Account has been fully applied; and
  - (c) that these regulations expire at the end of the day on which the notice is published.
- (2) These regulations expire as stated in a notice published under subregulation (1).

**30. Offence**

A person who knowingly makes a false statement, or who does, or is concerned in, any fraudulent act, for the purpose of obtaining any pecuniary benefit under this Scheme, whether for the person or for any other person, commits an offence.

Penalty: a fine of \$20 000.

### **Schedule 1 — Specified pests**

[r. 3]

1. Bedstraw (*galium tricornutum*)
2. Skeleton weed (*chondrilla juncea* L.)

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## Notes

<sup>†</sup> This is a compilation of the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* and includes ~~the~~ amendments made by ~~the~~ other written laws ~~referred to in the following~~. [For provisions that have come into operation see the compilation table.](#)

## Compilation table

Citation	<del>Gazetta</del> <a href="#">Publi</a> <a href="#">shed</a>	Commencement
<i>Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010</i>	21 May 2010 p. 2059-91	r. 1 and 2: 21 May 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 22 May 2010 (see r. 2(b))
<i>Public Sector Reform (Consequential Amendments) Regulations 2011</i> r. 20	11 Feb 2011 p. 502-7	12 Feb 2011 (see r. 2(d))
<i>Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Amendment Regulations 2012</i>	2 Mar 2012 p. 853-4	r. 1 and 2: 2 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Mar 2012 (see r. 2(b))
<a href="#">Biosecurity and Agriculture Management Regulations Amendment (Industry Funding Schemes) Regulations 2020 Pt. 3</a>	<a href="#">SL 2020/255</a> <a href="#">24 Dec 2020</a>	<a href="#">25 Dec 2020 (see r. 2(b))</a>