

Western Australia

Argentine Ant Act 1968

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Argentine Ant Act 1968

CONTENTS

1.	Short title	1
2.	Commencement	1
3.	Repeal	1
4.	Interpretation	1
5.	Minister to be body corporate	2
6.	Functions of Minister	2
7.	Appointment of authorised persons	3
8.	Vesting of property	3
9.	Minister may give certain notices by advertisement	4
10.	Power of person authorised by Minister to enter and treat premises	4
11.	Persons acting in good faith are not liable personally	6
12.	Obstruction is an offence	6
13.	Offences generally	6
14.	Penalties	6
15.	Proof of ownership or occupancy	6
16.	Regulations	8
	Notes	
	Compilation table	10

Argentine Ant Act 1968

An Act to provide for the control, prevention, and destruction of Argentine ants; to repeal the *Argentine Ant Act 1959* and for incidental and other purposes.

1. Short title

This Act may be cited as the *Argentine Ant Act 1968*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Repeal

The *Argentine Ant Act 1959* is repealed.

4. Interpretation

In this Act unless the context requires otherwise —

“**ants**” means Argentine ants;

“**authorised person**” means a person appointed to be an authorised person under section 7;

“**Committee**” means The Argentine Ant Control Committee as constituted under the *Argentine Ant Act 1959*, immediately prior to the coming into operation of this Act;

“**Fund**” means The Argentine Ant Control Committee Fund maintained under the *Argentine Ant Act 1959*;

“**litter**” includes refuse, garbage and rank vegetation;

“**occupier**” has the same meaning as in the *Local Government Act 1995*;

“**owner**” has the same meaning as in the *Local Government Act 1995*;

“**treatment**” means any manner of treatment having as its object the control, prevention or destruction of ants, and includes the application by spraying, and laying of baits, of substances which destroy ants.

[Section 4 amended by No. 14 of 1996 s. 4.]

5. Minister to be body corporate

The Minister in office at the coming into operation of this Act and his successors in office shall for the purposes of this Act become and continue to be a body corporate under the name of the “Minister for Agriculture” with perpetual succession and a common seal; and by that name shall be capable of suing and being sued, acquiring, holding and alienating real and personal property, and of doing and suffering all such other acts and things as may be necessary or expedient for carrying out the purposes of this Act.

6. Functions of Minister

- (1) For the purposes of this Act, the functions of the Minister include —
 - (a) the control and direction of the treatment and eradication of ants;
 - (b) the employment of and the engagement of the services of such persons (including persons not subject to Part 3 of the *Public Sector Management Act 1994*) as are necessary for the administration of this Act; and
 - (c) the exercise of such other powers as are conferred, and the discharge of such other duties as are imposed, upon the Minister by this Act.
- (2) The Minister may —

- (a) delegate to persons, or local governments, all or any of his powers and functions under this Act or the regulations (except this power of delegation);
 - (b) vary or revoke any delegation made by him; and
 - (c) enter into agreements and arrangements with local governments for the purposes of carrying out the administration of this Act.
- (3) Every local government is, by force of this section, authorised to accept and carry out any powers and functions delegated to it under this section, and to accept and carry out any function or duty conferred on it pursuant to an agreement or arrangement entered into by it under this section.

[Section 6 amended by No. 32 of 1994 s. 3(1); No. 14 of 1996 s. 4.]

7. Appointment of authorised persons

The Minister or his delegate may appoint such persons as he thinks fit to be authorised persons for the purposes of this Act.

8. Vesting of property

- (1) (a) All property in the possession or control of or held by the Committee immediately prior to the coming into operation of this Act is on the coming into operation of this Act transferred to and vests in the Minister.
- (b) All contracts entered into or rights enjoyed prior to the coming into operation of this Act by the Committee shall be deemed to have been entered into or enjoyed by the Minister and the Minister shall take and exercise in respect thereof all the powers, duties, rights, liabilities and immunities of the Committee.
- (2) The Minister may dispose of or sell in such manner as he thinks fit, any property that vests in him pursuant to subsection (1).
- (3) The Minister shall credit to the Consolidated Account —

s. 9

- (a) any money that results from such disposal or sale and apply the money for the purposes of this Act; and
 - (b) the moneys standing to the credit of the Fund on the coming into operation of this Act.
- (4) A reference in any other Act or regulations to the Committee shall be construed as a reference to the Minister.
- (5) Any persons employed or whose services are engaged by the Committee on the coming into operation of this Act shall be deemed to have been employed or engaged by the Minister under the provisions of this Act.

[Section 8 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]

9. Minister may give certain notices by advertisement

- (1) Where it is intended to carry out the inspection of premises or treatment in an area in which several premises are situated, the Minister or his delegate may instead of serving notice individually on the owners or occupiers, of his intention to enter the premises for the purpose of carrying out the inspection or treatment, publish in the *Gazette* and a newspaper circulating in the area, a notice of the intention directed to all owners and occupiers of premises in the area, without stating their respective names and addresses or particulars of the premises.
- (2) A notice so published is, if published in the *Gazette* and in the newspaper on the same day, effectively served on all of those owners and occupiers on that day, or, if published on different days, on the later of those days.

10. Power of person authorised by Minister to enter and treat premises

- (1) An authorised person with or without assistants, plant and materials, may —
- (a) lawfully enter premises;

- (b) inspect the premises and anything in or upon them for the purpose of detecting ants;
 - (c) rid the premises, or by written notice served upon him, require the owner or occupier to rid the premises of litter;
 - (d) where any movable thing is so placed in or upon the premises that it harbours or is likely to harbour ants or to hinder the treatment of the premises, move and rid it of ants, if any, and so place it in or upon the premises that it ceases to be likely to harbour ants or hinder the treatment, or by written notice served upon him, require the owner or occupier so to move, rid and place it; and
 - (e) carry out treatment of the premises in such manner whether by spraying, or laying baits, or otherwise, as is designed to control, prevent or destroy the ants.
- (2) Where a notice mentioned in subsection (1)(c) or (d) is served upon the owner or occupier of the premises and he does not comply with the requirement within 14 days of service of the notice upon him, or within such longer period as is specified in the notice, he commits an offence against this Act, and without prejudicing his liability to penalty, an authorised person may carry out the requirement, and recover the expense of doing so, from that owner or occupier in a court of competent jurisdiction as a debt due to the Crown.
- (3) If required to do so by the owner or occupier of the premises, the authorised person shall produce for inspection his authorisation from the Minister or a delegate of the Minister.
- (4) In exercising any of the powers conferred by this Act a person whose services are employed or engaged by the Minister shall cause as little inconvenience and damage as is practicable and shall give as much notice as is, in the circumstances, practicable of his intention to enter premises to the occupant of them, if they are occupied, or to the owner of them, if they are not occupied.

11. Persons acting in good faith are not liable personally

A person who, whether as Minister, a delegate of the Minister or a person whose services are employed or engaged by the Minister, is not personally liable for anything which he does or omits in good faith in pursuance or purported pursuance of the provisions of this Act.

12. Obstruction is an offence

A person who obstructs the Minister, a delegate of the Minister or a person whose services are employed or engaged by the Minister or his delegate, in the exercise of any power conferred or the carrying out of any duty imposed by this Act, commits an offence against this Act.

13. Offences generally

A person who omits to do what he is required under this Act to do, or does what he is prohibited under this Act from doing, commits an offence against this Act.

14. Penalties

A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned, is liable —

- (a) where the offence is not a continuing offence, to a maximum penalty of \$2 000; and
- (b) where the offence is a continuing offence, to such maximum penalty as does not exceed \$2 000 and an additional amount of \$200 for each day during which the offence continues.

[Section 14 amended by No. 20 of 1989 s. 3.]

15. Proof of ownership or occupancy

- (1) In addition to other methods of proof available, production —

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- (a) of the rate record of a local government or of a copy or extract purporting to be certified by the signature of the mayor or president or chief executive officer of the local government as a copy or extract of the rate record, showing that a person is rated as the owner or occupier of premises; or
 - (b) of a document purporting to be —
 - (i) a certificate signed by the Registrar of Deeds or his substitute or an Assistant Registrar of Deeds, that a person appears from a memorial of registration of a deed, conveyance, or other instrument to be the owner of premises;
 - (ii) a certificate signed by the Registrar of Titles, or an Assistant Registrar, that a person's name appears in the Register under the *Transfer of Land Act 1893*, as that of the owner of premises; or
 - (iii) a certificate signed by the chief executive officer of the department principally assisting in the administration of the *Land Administration Act 1997* or of the department principally assisting in the administration of the *Mining Act 1978* that a person is registered in the department as the lessee or occupier of premises,

is, until the contrary is proved, evidence that the person is the owner, lessee or occupier, as the case may be, of the premises.

- (2) Courts and persons having authority to hear, receive and examine evidence shall, for the purposes of this Act,
 - (a) take judicial notice of a certificate and signature mentioned in subsection (1); and
 - (b) presume as proved, in the absence of proof to the contrary, an averment in a claim, prosecution notice or other document, that a person is or was at a stated time, owner or occupier of premises.

[Section 15 amended by No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 84 of 2004 s. 79; No. 60 of 2006 s. 125.]

16. Regulations

- (1) The Governor may make regulations which appear to him to be necessary or convenient for effectually carrying out the objects and purposes of this Act and may prescribe as the maximum penalty for a breach of the regulations, which is not a continuing breach, a penalty not exceeding \$2 000, and where the breach is a continuing breach, such maximum penalty as does not exceed \$2 000 and an additional amount of \$200 for each day during which the breach continues.
- (2) Without affecting the generality of the power conferred by subsection (1), the Governor by the regulations —
 - (a) may require the owner or occupier of premises to make such preparations in or on the premises as are specified by the regulations or in writing by an authorised person, for facilitating or ensuring the effective carrying out of treatment under this Act of the premises;
 - (b) may, where treatment of premises has been carried out under this Act, prohibit within such period of the treatment as is specified in the regulations, the owner or occupier of the premises from adversely affecting the treatment in any manner specified by the regulations or in writing by an authorised person, including watering, top-dressing, burning-off, or digging-in any part of the premises which has received treatment;
 - (c) may authorise the Minister, where the owner or occupier of premises has not complied with the requirements of, or requisitioned under, the regulations to cause the requirements to be carried out at his expense and, without prejudicing his liability, if any, to penalty, to recover the amount expended from him in a court of competent jurisdiction; and

- (d) may prohibit, or impose restrictions on, the doing or omission of anything which will result, or be likely to result, in ants being introduced into an area which is free of ants or is about to be, is being, or has been subjected to treatment.

[Section 16 amended by No. 20 of 1989 s. 3.]

Notes

¹ This is a compilation of the *Argentine Ant Act 1968* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Argentine Ant Act 1968</i>	36 of 1968	4 Nov 1968	1 Jan 1969 (see s. 2 and <i>Gazette</i> 24 Dec 1968 p. 3920)
Reprint of the <i>Argentine Ant Act 1968</i> as at 9 Jan 1970			
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(1)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Transfer of Land Amendment Act 1996 s. 153(1)</i>	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
Reprint of the <i>Argentine Ant Act 1968</i> as at 5 Apr 2002 (includes amendments listed above)			
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 79</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Land Information Authority Act 2006 s. 125</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Financial Legislation Amendment and Repeal</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and

Short title	Number and year	Assent	Commencement
<i>Act 2006 s. 4</i>			<i>Gazette 19 Jan 2007 p. 137)</i>

² Footnote no longer applicable.

³ Under the *Public Sector Management Act 1994* the names of departments can be changed. At the time of this reprint the former Department of Mines is called the Department of Mineral and Petroleum Resources.