

Western Australia

## **Artificial Breeding of Stock Act 1965**

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As at 01 May 2005

Version 03-b0-02

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## Artificial Breeding of Stock Act 1965

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## **Artificial Breeding of Stock Act 1965**

**An Act relating to the control of the artificial breeding of stock.**

**1. Short title**

This Act may be cited as the *Artificial Breeding of Stock Act 1965*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

**3. Construction**

This Act shall be read and construed subject to the *Commonwealth of Australia Constitution Act* and so as not to exceed the legislative power of this State to the intent that where any provision of this Act, or the application of that provision to any person or circumstance is held invalid, the remainder of this Act, and the application of that provision to other persons or circumstances shall not be affected.

**4. Interpretation**

In this Act, unless the contrary intention appears —

**“artificial breeding”** includes —

- (a) artificial insemination; and
- (b) the performance of any of the operations or processes involved in the removal of an ovum or embryo from a female animal and its implanting in another female animal of a prescribed species of stock, whether by way of an intermediate carrier or otherwise;

**“artificial insemination”** includes —

- (a) the processes connected with the collection, dilution, examination, chilling, freezing, storing, distribution, sale and use of semen and any other process connected with the handling of semen during the period commencing with the process of collection from a sire and ending with its deposition in a female of the relevant species of stock; and
- (b) the performance of the operation of artificially inseminating stock;

**“authorised inseminator”** means a person who holds a certificate of competency as such granted under this Act;

**“authorised ovum and embryo transplant technician”** means a person who holds a certificate of competency as such granted under this Act;

**“cattle”** means a bull, cow, ox, steer, heifer, or calf of the bovine genus;

**“Chief Veterinary Surgeon”** means the person for the time being holding the office of Chief Veterinary Surgeon and Chief Inspector of Stock in the State Department of Agriculture;

**“custom collector of semen”** means a person who holds a certificate of competency as such granted under this Act;

**“disease”** used in relation to stock means any disease, parasite or pest that the Governor proclaims to be a disease for the purposes of this Act;

**“embryo”** means a fertilized ovum in the early stages of development;

**“herdsman-inseminator”** means a person who holds a certificate of competency as such granted under this Act;

**“inspector”** means a person who as an inspector under the *Stock Diseases (Regulations) Act 1968*;

**“licence”** means a licence granted under this Act, that is valid and current;

“**licensed premises**” means premises that are the subject of a licence;

“**licensee**” means the holder of a licence;

“**ovum**” means an unfertilized female reproductive cell;

“**owner**” means a person who has the sole property, right, title or interest in, or in the use for breeding purposes of, the sire or dam but may, where the context so permits, be construed as including a body of not more than 4 persons who together, whether jointly or severally, hold between them exclusively any such property, right, title or interest;

“**semen**” means semen obtained from a sire;

“**sire**” means an entire male animal of any species of stock;

“**stock**” means any goats, horses, cattle, sheep or pigs and includes poultry of all kinds and such other animals of any kind of species that the Governor proclaims to be stock for the purposes of this Act;

“**veterinary surgeon**” means a person who is registered or deemed to be registered under the *Veterinary Surgeons Act 1960*.

[Section 4 amended by No. 85 of 1976 s. 3; No. 22 of 1988 s. 4; No. 7 of 1995 s. 4.]

## 5. Artificial insemination

- (1) Nothing in this Act limits or affects the right of an owner to perform with respect to his own stock the operation of artificial insemination —
  - (a) with semen obtained from his own stock; or
  - (b) with semen obtained from licensed premises in compliance with the requirements of this Act,or to carry out for the purposes of such artificial insemination any necessary related process on his premises.
- (2) Nothing in this Act shall be construed as rendering unlawful the carrying out by a veterinary surgeon of any process or operation

**s. 5A**

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in relating to the artificial insemination of stock, and any such person —

- (a) does not require a certificate of competency under this Act, but is required to furnish returns and information as though he was the holder of a certificate of competency relevant to the circumstances; and
  - (b) is required to comply with the provisions of this Act as to the use of premises.
- (3) A herdsman-inseminator may lawfully inseminate stock in the ownership of the person by whom he is employed as a herdsman using semen obtained from other stock in the same ownership or from licensed premises in compliance with the requirements of this Act.
- (4) An authorised inseminator acting within the authority conferred by his certificate of competency and the regulations may lawfully inseminate stock using semen obtained from other stock in the same ownership or from licensed premises in compliance with the requirements of this Act.
- (5) A custom collector of semen may lawfully collect semen from a sire for or on behalf of the owner of the sire, but shall not supply or permit the supply of the semen collected by him otherwise than to the owner of that sire.
- (6) Except in so far as that process or operation is authorised by this section, a person who carries out any of the processes or operations referred to in the interpretation of the term “artificial insemination” in section 4 commits an offence against this Act.

*[Section 5 inserted by No. 85 of 1976 s. 4.]*

**5A. Ovum or embryo transplants**

- (1) Nothing in this Act shall be construed as rendering unlawful the carrying out by a veterinary surgeon of any process or operation in relation to the artificial breeding of stock by way of ovum or embryo transplant, but any such person shall furnish such



returns and information as may be prescribed and is required to comply with the provisions of this Act as to the use of premises.

- (1a) An authorised ovum and embryo transplant technician acting within the authority conferred by his certificate of competency and the regulations may lawfully carry out an operation relating to the artificial breeding of stock by way of ovum or embryo transplant if —
- (a) that operation does not include the making of an incision; and
  - (b) any ova or embryos used in the operation are obtained from stock in the same ownership or from licensed premises in compliance with the requirements of this Act,

but any such person is required to comply with the provisions of this Act as to the use of premises.

- (2) Notwithstanding section 26(3)(b) of the *Veterinary Surgeons Act 1960* a person, other than a veterinary surgeon, who carries out an operation relating to the artificial breeding of stock by way of ovum or embryo transplant commits an offence against this Act, except in so far as that operation is authorised by this section.

*[Section 5A inserted by No. 85 of 1976 s. 5; amended by No. 22 of 1988 s. 5; No. 7 of 1995 s. 5.]*

#### **5B. Licensing of premises**

- (1) Subject to the provisions of section 5(1), a person who uses any premises, other than premises licensed for the purpose under this Act in relation to the relevant species, for the purpose of collecting, diluting, examining, chilling, freezing, processing, or storing the semen of any species of stock, commits an offence against this Act.
- (2) A person who uses any premises licensed under this Act for artificial insemination purposes otherwise than in accordance

with the licence relating thereto commits an offence against this Act.

- (3) Subject to subsection (4), a person who uses any premises, other than premises licensed for the purpose under this Act in relation to the relevant species, for the purposes of the performance of any of the operations or processes referred to in paragraph (b) of the definition of “artificial breeding” in section 4 commits an offence against this Act.
- (4) Subsection (3) does not apply to the use of premises for the purposes of performing the operation of the removal of an ovum or embryo from a female animal and its implanting in another female animal where the person on whose behalf the operation is performed is the owner of both the donor and the recipient animal and the premises are his premises.
- (5) A person who uses any premises licensed under this Act for ovum or embryo transplant purposes otherwise than in accordance with the licence relating thereto, commits an offence against this Act.

Penalty: \$2 000.

*[Section 5B inserted by No. 85 of 1976 s. 6; amended by No. 22 of 1988 s. 6; No. 20 of 1989 s. 3; No. 7 of 1995 s. 6.]*

## **6. Licence**

- (1) A licence authorising premises to be used for the purposes of the artificial breeding of stock shall be in the form prescribed and unless sooner cancelled, shall remain in force for a period of 3 years from the date of its issue.
- (2) A licence may, at any time within 3 months of its expiry, be renewed, and on each renewal, unless sooner cancelled, has effect for a further period of 3 years.
- (3) A licence —
  - (a) authorises the processes and operations in relation to the artificial breeding of stock referred to therein;

- (b) may be issued in relation to the premises referred to therein to the persons referred to therein; and
- (c) relates to the species of stock referred to therein,

but does not confer any general authority as to the artificial breeding of stock.

- (4) A licence —
  - (a) may be transferred to another person or so as to relate to other premises; and
  - (b) may be varied with respect to the processes, operations, premises in use, persons employed, or species dealt with,

and where a licence is so transferred or so varied the transfer or variation shall be effected by the Chief Veterinary Surgeon endorsing the licence accordingly.

- (5) The grant, renewal, variation or transfer of a licence may be made subject to the payment of a prescribed fee.
- (6) In determining whether or not a licence to use premises for artificial breeding purposes shall be granted or transferred under this Act and the conditions which shall be imposed in relation to any such licence, the Chief Veterinary Surgeon shall have regard to the need to protect the owners of stock using artificial breeding methods by ensuring that the semen, ova or embryos to be utilized are obtained from stock that meet criteria approved by the Chief Veterinary Surgeon not only as to freedom from disease but also in relation to production standards and freedom from inherited defects.
- (7) For the purposes of this Act a licence may be made subject to such conditions, restrictions or limitations as may be prescribed or imposed by the Chief Veterinary Surgeon.

*[Section 6 amended by No. 85 of 1976 s. 7; No. 7 of 1995 s. 7; No. 9 of 1998 s. 6 and 8.]*

**7. Applications for grant, renewal, variation or transfer of a licence**

- (1) An application for the grant, renewal, variation, or transfer of a licence shall be in the form prescribed and shall be made to the Chief Veterinary Surgeon.
- (2) The Chief Veterinary Surgeon may in his discretion grant or refuse any application made under this section.

*[Section 7 amended by No. 85 of 1976 s. 8; No. 9 of 1998 s. 8.]*

**8. Cancellation, etc., of licence**

- (1) If a licensee is convicted of an offence against this Act, the Court before which he is convicted may, in addition to, or instead of imposing any other penalty that it may impose in respect of that offence, order that —
  - (a) the licence be cancelled or suspended for such period as the Court thinks fit; or
  - (b) the licence be varied as the Court thinks fit,

and the licence shall, for the purposes of this Act, be deemed to have been cancelled, suspended or varied accordingly as from the date of the making of the order.

- (2) Where a licence is cancelled, suspended or varied pursuant to subsection (1), the licensee shall forthwith surrender the licence to the registrar of the Court that made the order cancelling, suspending or varying the licence, as the case may be.
- (3) The registrar of the Court shall forward the licence together with a certified copy of the order to the Chief Veterinary Surgeon.
- (4) Upon receipt of the licence the Chief Veterinary Surgeon shall endorse it with the terms of the order and —
  - (a) if it has been varied but has not been cancelled or suspended, return it, as so endorsed, to the licensee; or
  - (b) if it has been suspended, return it, as so endorsed to the holder at the expiration of the period of suspension.

*[Section 8 amended by No. 85 of 1976 s. 9; No. 9 of 1998 s. 8; No. 59 of 2004 s. 141.]*

**8A. Review of decisions of Chief Veterinary Surgeon**

- (1) A person who is aggrieved by a decision of the Chief Veterinary Surgeon under section 6 or 7 may apply to the Minister to have the decision reviewed.
- (2) If the Minister receives an application under subsection (1), the Minister is to direct the Chief Veterinary Surgeon —
  - (a) to review the decision; and
  - (b) within the time specified in the direction, to either make a different decision or advise the applicant in writing of the reasons for not doing so,

and the Chief Veterinary Surgeon must give effect to the direction.

*[Section 8A inserted by No. 9 of 1998 s. 7.]*

**9. Prohibition of importation**

- (1) The Minister may, by notice in the *Gazette*, from time to time prohibit, either absolutely or conditionally, the introduction into or use within the State of semen, ova or embryos obtained from any specified stock or stock of a specified species where he has reason to believe that the introduction or use of that semen, ova or embryos would adversely affect the breeding of stock in the State, whether by reason of inherited defects, disease, production standards or otherwise.
- (2) A notice published under this section may be varied or revoked by a subsequent notice so made and published.
- (3) A person who contravenes or fails to comply with the provisions of a notice published under this section commits an offence against this Act.  
Penalty: \$3 000.

*[Section 9 inserted by No. 85 of 1976 s. 10; amended by No. 20 of 1989 s. 3; No. 7 of 1995 s. 8.]*

**10. Certificates of competency**

- (1) The Chief Veterinary Surgeon shall have the power to grant certificates of competency of the following classes —
  - (a) herdsman-inseminator;
  - (b) authorised inseminator;
  - (ba) authorised ovum and embryo transplant technician;
  - (c) custom collector of semen; or
  - (d) any other prescribed class.
- (2) The extent of the authority conferred by any certificate shall be as prescribed.
- (3) On an applicant successfully completing a prescribed course of instruction or otherwise satisfying the Chief Veterinary Surgeon that he possesses the requisite knowledge and experience, and paying the prescribed fee, the Chief Veterinary Surgeon shall grant to that person a certificate of competency of the appropriate class.
- (4) Where it appears to the Chief Veterinary Surgeon that a person who is the holder of a certificate of competency under this Act —
  - (a) obtained that status by fraud or misrepresentation; or
  - (b) is guilty of an offence against this Act or of misconduct in relation to artificial breeding procedures,

the Chief Veterinary Surgeon, after affording to that person an opportunity of giving an explanation, may revoke that certificate by notice in the *Gazette*.

*[Section 10 inserted by No. 85 of 1976 s. 11; amended by No. 22 of 1988 s. 7; No. 7 of 1995 s. 9.]*

**11. Powers of inspector and veterinary surgeon employed in Department of Agriculture**

- (1) An inspector or veterinary surgeon employed in the State Department of Agriculture may —
- (a) enter and inspect any licensed premises and examine and make copies of, or take extract from, any records required by the regulations to be kept in relation to the use of and to operations that are performed on those premises, and examine any semen, ova or embryos or package containing or reasonably suspected by him to contain semen, ova or embryos that he finds on those premises;
  - (b) enter, search and examine any place that is being used or that he has reasonable grounds to suspect is being used for or in connection with the collection, storage or packing of semen, ova or embryos for sale or for or in connection with the performance, carrying out, or doing of any operations, acts or things relating to the practice of artificial breeding, and examine any semen, ova or embryos or package containing, or reasonably suspected by him to contain, semen, ova or embryos, that he finds in that place;
  - (c) enter and search any vehicle, ship or aircraft that is being used, or that he has reasonable grounds to suspect is being used, for the conveyance of semen, ova or embryos, and examine any semen, ova or embryos or package containing, or reasonably suspected by him to contain, semen, ova or embryos that he finds in that vehicle, ship or aircraft;
  - (d) take possession of any semen, ova or embryos or package containing semen, ova or embryos in respect of which, in his opinion, an offence against this Act has been committed;
  - (e) require any person to produce to him any records or other documents relating to semen, ova or embryos or

packages containing semen, ova or embryos that are in the possession or custody or under the control of that person, and to answer truly any questions put to him by the inspector or veterinary surgeon in relation thereto or in relation to any suspected contravention of the provisions of this Act; and

- (f) require any person who he has reason to believe is the holder of a licence or certificate of competency under this Act to produce for inspection that licence or certificate.
- (2) Any veterinary surgeon acting under the instructions of the Chief Veterinary Surgeon may at all reasonable hours enter any licensed premises, and may examine any stock found thereon and subject them to tests for the presence of disease and such tests as may be necessary to determine their eligibility for use in artificial breeding.
- (3) A person who hinders or obstructs or wilfully delays any inspector or any veterinary surgeon referred to in subsection (1) or (2) in the exercise of the powers conferred upon him by this Act commits an offence against this Act.
- (4) Any inspector or veterinary surgeon employed in the State Department of Agriculture may —
  - (a) require the owner of any stock in which an ovum or embryo has been artificially implanted to furnish to the Chief Veterinary Surgeon such information as to the operation or resulting progeny as may be reasonably required for the purpose of assessing the success or otherwise of the implant and the characteristics of the progeny;
  - (b) require a veterinary surgeon, any holder of a certificate of competency granted under this Act, or a person who has utilized semen obtained from licensed premises to furnish such returns and information as to the use of semen as may from time to time be so required;



- (c) require a veterinary surgeon or authorised ovum and embryo transplant technician to furnish such returns and information as to the use of ova as may from time to time be so required.
- (5) A person who fails to comply with a requirement made pursuant to subsection (4) within such reasonable time as may be specified by the inspector or veterinary surgeon seeking the information commits an offence against this Act.

*[Section 11 amended by No. 85 of 1976 s. 12; No. 22 of 1988 s. 8; No. 7 of 1995 s. 10.]*

## **12. General penalty**

- (1) A person who contravenes or fails to comply with any condition, restriction, or limitation prescribed or imposed in relation to a licence or a certificate of competency granted under this Act commits an offence against this Act.
- (2) A person who is guilty of an offence against this Act is liable on conviction to the penalty expressly prescribed as the penalty for the offence, or if a penalty is not so prescribed, to a penalty not exceeding \$2 000.
- (3) The variation of a condition, restriction or limitation referred to in subsection (1) does not affect any penalty or punishment incurred, imposed, or liable to be incurred or imposed, prior to that variation, or any investigation or legal proceedings in respect of such a penalty or punishment, notwithstanding any other enactment.

*[Section 12 amended by No. 113 of 1965 s. 8(1); No. 85 of 1976 s. 13; No. 20 of 1989 s. 3; No. 78 of 1995 s. 5.]*

## **12A. Ministerial direction**

In the exercise of his functions under this Act the Chief Veterinary Surgeon shall give effect to any direction that may be given to him by the Minister.

*[Section 12A inserted by No. 85 of 1976 s. 14.]*

**13. Regulations**

- (1) The Governor may make regulations under this Act for or with respect to —
- (a) the terms and conditions applicable to licences and certificates of competency;
  - (b) the fees payable in respect of licences and certificates, and the renewal and transfer of licences;
  - (c) the cases in which, and condition upon which, duplicates of licences or certificates may be issued;
  - (d) the movement of stock onto, upon and off licensed premises;
  - (e) the sale, exportation and importation of semen, ova and embryos;
  - (f) the manner in which licensed premises shall be equipped;
  - (g) the manner of collecting, diluting, examining, chilling, freezing, processing, storing and packing semen on licensed premises;
  - (ga) the manner of performing any of the operations or processes referred to in paragraph (b) of the definition of “artificial breeding” in section 4 on licensed premises;
  - (h) the conditions of eligibility of stock for use in the collection of semen or the transplantation of ova or embryos;
  - (i) the records to be kept by persons and the records to be kept in relation to the use of licensed premises in connection with any operation, act or thing done under the authority of this Act;
  - (j) the returns to be furnished to the Chief Veterinary Surgeon, the times or periods when or within which those returns shall be so furnished and the contents and verification of those returns;

- (k) the qualifications of persons for the purpose of section 10 and the qualifications of persons for the grant of licences and other conditions to be fulfilled by applicants therefor; and
  - (l) such other matters as may be necessary or convenient for carrying out or giving effect to the provisions of this Act.
- (2) A provision in any regulation may apply to stock generally or to stock of any specified species or to species of stock other than those specified.
- (3) The regulations may —
- (a) impose penalties, not exceeding \$2 000 for offences against the regulations; and
  - (b) require that, in such cases as may be prescribed, documents lodged with or forwarded to the Chief Veterinary Surgeon shall be verified by statutory declaration.

*[Section 13 amended by No. 113 of 1965 s. 8(1); No. 85 of 1976 s. 15; No. 22 of 1988 s. 9; No. 20 of 1989 s. 3; No. 7 of 1995 s. 11; No. 9 of 1998 s. 8.]*

### Notes

- <sup>1</sup> This is a compilation of the *Artificial Breeding of Stock Act 1965* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Artificial Breeding of Stock Act 1965</i>	90 of 1965	8 Dec 1965	4 Aug 1967 (see s. 2 and <i>Gazette</i> 4 Aug 1967 p. 1903)
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<b>Reprint of the <i>Artificial Breeding of Stock Act 1965</i> authorised 16 Jul 1970</b> (includes amendments listed above)			
<i>Artificial Breeding of Stock Act Amendment Act 1976</i>	85 of 1976	21 Oct 1976	31 Jan 1979 (see s. 2 and <i>Gazette</i> 26 Jan 1979 p. 193)
<i>Artificial Breeding of Stock Amendment Act 1988</i>	22 of 1988	5 Oct 1988	7 Apr 1989 (see s. 2 and <i>Gazette</i> 7 Apr 1989 p. 1013)
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i> s. 3	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)
<b>Reprint of the <i>Artificial Breeding of Stock Act 1965</i> as at 5 Feb 1990</b> (includes amendments listed above)			
<i>Artificial Breeding of Stock Amendment Act 1995</i>	7 of 1995	24 May 1995	24 May 1995 (see s. 3)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 4	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Agricultural Legislation Amendment and Repeal Act 1998</i> Pt. 4	9 of 1998	30 Apr 1998	4 Jul 1998 (see s. 2 and <i>Gazette</i> 3 Jul 1998 p. 3581)
<b>Reprint 3: The <i>Artificial Breeding of Stock Act 1965</i> as at 10 Oct 2003</b> (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)