

Western Australia

Agricultural Produce Commission Act 1988

**Agricultural Produce (Horticultural Industry)
Regulations 2001**

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Western Australia

Agricultural Produce (Horticultural Industry) Regulations 2001

CONTENTS

1.	Citation	1
2.	Interpretation	1
3.	Prescribed services that may be provided by a producers' committee established in relation to a horticultural produce	2
4.	Prescribed statistical information	2
5.	Liability for charges	3
6A.	Collection by dealer	3
6.	Local government to collect and pay certain charges	4
7.	Publication of notice of charge imposed under section 14 of the Act	5
8.	Returns	5
9.	The Horticultural Produce Commission General Regulations 1991 repealed	6
10.	Transitional and saving	6
	Notes	
	Compilation table	8

Agricultural Produce (Horticultural Industry) Regulations 2001

1. Citation

These regulations may be cited as the *Agricultural Produce (Horticultural Industry) Regulations 2001*.

2. Interpretation

In these regulations unless the contrary intention appears -

charge means a charge imposed under section 14 of the Act;

dealer means any person who —

- (a) purchases any horticultural produce direct from a producer wholesale for resale; or
- (b) receives horticultural produce from a producer for wholesale sale on behalf of the producer; or

[(c), (d) deleted]

- (e) receives any horticultural produce from a producer or wholesaler for processing;

horticultural produce means -

- (a) wine, fruit and the juices of fruit, whether fresh or processed;
- (b) vegetables and the juices of vegetables, whether fresh or processed;
- (c) nuts including processed nuts;

- (d) flowers, whether fresh or dried;
- (e) plants, including grass and other herbaceous plants, grown for sale as living plants;

producer means a producer of horticultural produce in relation to which a producers' committee is established under the Act;

sale includes barter or exchange.

[Regulation 2 amended in Gazette 15 Sep 2009 p. 3567-8.]

3. Prescribed services that may be provided by a producers' committee established in relation to a horticultural produce

For the purpose of section 12(1) of the Act, the services referred to in section 12(1)(a) to (m) of the Act are prescribed as services that a producers' committee may provide in relation to the horticultural produce in relation to which it was established.

4. Prescribed statistical information

- (1) In subregulation (2) "specified" means specified by the Commission by notice in writing addressed to the person who produces the kind of horticultural produce in question.
- (2) The following information is prescribed statistical information a producer may be required to produce for the purposes of section 13 of the Act —
 - (a) the quantity of specified horticultural produce produced for sale by the producer during a specified period or on a specified date;
 - (b) the location and area of land cultivated by the producer during a specified period or on a specified date for the purposes of the cultivation of the specified horticultural produce;
 - (c) the name and address of each dealer to whom the producer has sold or supplied specified horticultural produce during a specified period or on a specified date;

- (d) the quantity of specified horticultural produce sold or supplied to each dealer referred to in paragraph (c) during a specified period or on a specified date;
- (e) the quantity of specified horticultural produce sold or supplied by the producer during a specified period or on a specified date otherwise than to a dealer.

[Regulation 4 amended in Gazette 15 Sep 2009 p. 3568.]

5. Liability for charges

- (1) A producer is liable to pay such charges as are imposed by the Commission under section 14(1) of the Act.
- (2) A producer of horticultural produce who sells the produce to a person other than a dealer must pay any charge that relates to the produce to the Commission not later than 14 days after the end of the month during which the produce was sold or within such longer period as the Commission allows.

[Regulation 5 amended in Gazette 15 Sep 2009 p. 3568-9.]

6A. Collection by dealer

- (1) A charge required under subregulation (2) to be collected by a dealer becomes due and payable by a producer on the day on which the dealer is required to collect the charge from the producer.
- (2) Except where collection is required under regulation 6, a dealer who purchases or receives horticultural produce from a producer must, on the day on which the dealer purchases or receives the produce, collect from the producer any charge that relates to the produce and for which the producer is liable under regulation 5(1).
Penalty: a fine of \$2 000.
- (3) A dealer may collect a charge referred to in subregulation (2) —
 - (a) by deducting the amount of the charge from moneys owed to the producer by the dealer; or

(b) as a separate transaction.

- (4) A dealer who collects a charge from a producer under subregulation (3)(a) must, within 28 days of making the deduction, give the producer a written statement of the amount deducted.
- (5) A dealer who collects a charge under this regulation holds the charge on behalf of the Commission.
- (6) A dealer who collects any charge under subregulation (2) must pay the charge so collected to the Commission not later than 14 days after the end of the month during which the charge was collected or within such longer period as the Commission allows.
Penalty: a fine of \$2 000.
- (7) The payment by a dealer to the Commission of a charge collected under this regulation —
- (a) if collected by way of deduction from an amount owed by the dealer to a producer, is a discharge of the dealer's obligation to pay the amount of the deduction to the producer; and
 - (b) is a discharge of the producer's liability to pay that charge.

[Regulation 6A inserted in Gazette 15 Sep 2009 p. 3569-70.]

6. Local government to collect and pay certain charges

- (1) If a charge referred to in regulation 5(1) is imposed by the Commission under section 14(1) of the Act for the purpose of the provision by a producers' committee of a service to control or to develop a means of controlling a pest or disease specified in a notice published under section 19A(2)(a), the charge must be collected by the local government of any district in which the producers' committee provides the service.
- (2) A local government that collects a charge under subregulation (1) must pay the charge so collected to the Commission not later

than 14 days after the end of the month during which the charge was collected or within such longer period as the Commission allows.

- (3) A charge referred to in regulation 5(1) that is required to be collected by a local government under this regulation is payable on and from the day specified in the notice of the charge as being the day on and from which the charge is imposed.

[Regulation 6 amended in Gazette 15 Sep 2009 p. 3570.]

7. Publication of notice of charge imposed under section 14 of the Act

- (1) A notice that requires publication for the purposes of section 14(3) of the Act must be published in a newspaper circulating in the area or areas of the State where the producers, on whom the charge referred to in the notice is imposed, are located.
- (2) The notice must be published at least 14 days before the day specified in the notice as the day on and from which the charge referred to in the notice is imposed.

[Regulation 7 amended in Gazette 15 Sep 2009 p. 3570.]

8. Returns

- (1) A dealer must, not later than 14 days after the end of each month during which the dealer has dealt in horticultural produce or within such longer period after the end of that month as the Commission allows, furnish to the Commission a return in the form approved by the Commission showing all dealings by the dealer in horticultural produce during that month.

Penalty: a fine of \$2 000.

- (2) A dealer referred to in subregulation (1), if requested to do so by the Commission, must include in the return the following information —
 - (a) the names of the producers with whom the dealer dealt;

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- (b) the quantities of horticultural produce supplied by those producers;
- (c) each type of horticultural produce supplied by those producers.

Penalty: a fine of \$2 000.

- (3) A producer must, not later than 14 days after the end of each month during which the producer has sold horticultural produce produced by the producer to a person other than a dealer, give to the Commission a return in relation to that produce in the form approved by the Commission.

Penalty: a fine of \$2 000.

- (4) A return under subregulation (3) must show the following information —
 - (a) the quantities of each type of horticultural produce;
 - (b) the types of horticultural produce.

- (5) A return may be given to the Commission in a hard copy or electronic form.

[Regulation 8 inserted in Gazette 15 Sep 2009 p. 3570-1.]

9. The Horticultural Produce Commission General Regulations 1991 repealed

The Horticultural Produce Commission General Regulations 1991 are repealed.

10. Transitional and saving

- (1) In this regulation -
commencement day means the day on which these regulations come into operation.
- (2) A producer who is liable to pay a charge imposed by the Commission under section 14 of the Act immediately before the Horticultural Produce Commission Amendment Act 2000 came into operation is, on and after the commencement day, to be

taken to be liable to pay that charge under section 14(1) of the Act as if it had been imposed by the Commission on the commencement day.

- (3) These regulations apply to a charge referred to in subregulation (2) as if the charge had been imposed by the Commission on the commencement day under section 14(1) of the Act.

Notes

¹ This is a compilation of the *Agricultural Produce (Horticultural Industry) Regulations 2001* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazetta	Commencement
<i>Agricultural Produce (Horticultural Industry) Regulations 2001</i>	13 Feb 2001 p. 863-6	13 Feb 2001
<i>Agricultural Produce (Horticultural Industry) Amendment Regulations 2009</i>	15 Sep 2009 p. 3567-71	r. 1 and 2: 15 Sep 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 16 Sep 2009 (see r. 2(b))