

Western Australia

Plant Diseases Act 1914

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Plant Diseases Act 1914

An Act to prevent the introduction into Western Australia of diseases affecting plants, to provide for the eradication of such diseases and to prevent the spread thereof, and to amend and consolidate the law relating to such matters.

1. Short title and commencement

This Act may be cited as the *Plant Diseases Act 1914*, and shall come into operation on a day to be fixed by proclamation¹.

[2. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

[3. *Repealed by No. 51 of 1984 s. 3.*]

4. Interpretation

In this Act, subject to the context —

“**authorised inspector**” means an inspector appointed under section 7A;

“**covering**” includes any case, box, bag, wrapper, packing, or material of whatsoever description used to cover any thing or designed to contain or be used in the packing of anything;

“**Director General**” means Director General of Agriculture or a person authorised by him;

“**disease**” means any disease that commonly attacks plants and includes any plant, animal, fungus, bacteria, virus or nematode commonly found in or on plants;

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“fruit” means the product of any plant, and includes the peel, skin, or shell of any such product, and also the seeds of any plant;

“infected” means actually infected with disease or liable, by reason of contact or proximity, to be infected;

“inspector” means a person appointed as an inspector under or for the purposes of this Act;

“occupier” as applied to any orchard or other land or premises includes any person having the charge, management, or control thereof;

“orchard” means any land used for the purpose of growing or cultivating plants, and includes any garden, farm, vinery, vineyard, and hothouse, and any place where any plant is cultivated or where any plant which has been cultivated is growing;

“owner”, as applied to land, means any person who is in possession or entitled to possession of the land, or in receipt or entitled to the receipt of rents and profits of the land, as —

- (a) the holder of a legal or equitable estate of freehold in possession therein; or
- (b) the holder of an estate less than freehold under a lease or agreement granted or made by or with the Crown; or
- (c) a mortgagee of the land; or
- (d) the trustee, attorney, or authorised agent of any such holder or mortgagee;

“plant” includes any part of a plant, and extends to fruit;

“potential carrier” means anything capable of carrying and transmitting disease and includes —

- (a) animals;
- (b) plants;

- (c) coverings and any movable thing used for or in connection with plants; and
- (d) the clothing and personal effects of persons handling plants; and
- (e) any other thing declared by the Director General to be a potential carrier;

“private inspection and treatment premises” means private inspection and treatment premises registered under this Act.

[Section 4 amended by No. 3 of 1949 s. 3; No. 3 of 1974 s. 3; No. 51 of 1984 s. 4; No. 40 of 1993 s. 4.]

5. Purposes of this Act

The purposes of this Act are to prevent the introduction into the State of diseases affecting plants, to eradicate and control diseases in or on plants and to prevent the spread thereof.

[Section 5 inserted by No. 51 of 1984 s. 5.]

[6. Repealed by No. 51 of 1984 s. 6.]

6A. Inspector’s powers of detention

An inspector may detain any plant or potential carrier in respect of which fees have become payable for any inspection pursuant to the provisions of this Act until payment of those fees, and failing payment thereof within the time specified in a notice given by the inspector to the person who appears to him to be the owner of the plant or potential carrier may dispose of the plant or potential carrier by sale or otherwise: Provided that in the case of sale the proceeds shall be appropriated in payment or part payment of the amount due for fees and any balance remaining after payment in full of the fees shall be transmitted to the person entitled thereto.

[Section 6A inserted by No. 35 of 1947 s. 3; amended by No. 51 of 1984 s. 7.]

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7. Appointment of officers

- (1) There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* such inspectors and other officers as are necessary for carrying out the provisions of this Act.
- (2) The Minister may appoint temporary inspectors to hold office for any period not exceeding 12 months, and every person so appointed shall be deemed to be an inspector for the purposes of this Act.

[Section 7 amended by No. 51 of 1984 s. 8; No. 32 of 1994 s. 3(2).]

7A. Authorised inspector

- (1) The Minister may, in writing appoint a person to be an authorised inspector for the purposes of this Act.
- (2) Every authorised inspector appointed under subsection (1) must perform the functions specified in his or her notice of appointment.
- (3) The Director General must issue to each authorised inspector a certificate, in a form approved by the Director General, which —
 - (a) certifies that the person is an authorised inspector for the purposes of this Act; and
 - (b) contains a brief statement summarizing the functions of the inspector under this Act specified in the notice of appointment referred to in subsection (2).
- (4) An authorised inspector must produce the certificate referred to in subsection (3) whenever required to do so by any person in respect of whom an authorised inspector has, or is about to, exercise any function conferred on the authorised inspector under this section.

- (5) A certificate purporting to have been furnished under subsection (3) is evidence in any court of the appointment to which the certificate purports to relate.

[Section 7A inserted by No. 40 of 1993 s. 5.]

7B. Relationship to Public Service

The fact that an authorised inspector is appointed under section 7A does not —

- (a) render the provisions of the *Public Sector Management Act 1994*², or any Act applying to persons as officers of the Public Service of the State, applicable to that authorised inspector; or
- (b) affect or prejudice the application to the authorised inspector of those provisions if they applied to the authorised inspector at the time of his or her appointment.

[Section 7B inserted by No. 40 of 1993 s. 5.]

7C. Arrangements for services

The Minister may enter into arrangements with any body or person with respect to the carrying out of any work that may be necessary or desirable for the purposes of this Act.

[Section 7C inserted by No. 40 of 1993 s. 5.]

[8. Repealed by No. 55 of 1981 s. 2.]

[9. Repealed by No. 40 of 1993 s. 6.]

10. Notice to be given of appearance of disease

Every occupier of any orchard in which a prescribed disease or prescribed class of disease or group of diseases appears shall, within 24 hours after first discovering or becoming aware of its presence, give written notice thereof to an inspector or to the Director General of Agriculture³.

[Section 10⁴ amended by No. 53 of 1962 s. 2; No. 40 of 1993 s. 7.]

11. Obligation to carry out treatment for plant diseases

- (1) Whenever any disease to which this section applies exists or appears in any orchard, the occupier of the orchard shall take or cause to be taken such steps, and adopt such measures, as are prescribed as appropriate steps to be taken, and measures to be adopted, in order to eradicate such disease and prevent the spread thereof.

Penalty: \$5 000.

- (2) The diseases to which this section applies are such diseases as are for the time declared by any regulation to be subject to the provisions of this section.
- (3) Whenever an inspector shall discover that a breach of this section has been committed he may take or cause to be taken all or any of the steps and adopt all or any of the measures aforesaid, and may also take and adopt any other step or measure which is authorised by the regulations, and the expenses of or incidental to any action taken by an inspector hereunder shall be recoverable from the person guilty of the breach.

[Section 11⁴ inserted by No. 4 of 1925 s. 2 as s. 8A; amended by No. 6 of 1926 s. 2; No. 22 of 1966 s. 3; No. 55 of 1981 s. 12; No 51 of 1984 s. 10.]

12. Minister may declare certain areas to be infested

- (1) The Minister may by notice published in the *Government Gazette* and in a newspaper circulating in the area specified in such notice, declare that any portion of the State defined in such notice is infested with disease of the kind mentioned in such notice, and may at any time thereafter by notice published similarly to the first-mentioned notice cancel such first-mentioned notice.
- (2) Upon the publication of such notice, and while the same continues in operation, the owner or occupier of every orchard situate within the area defined in the notice shall take, or cause

to be taken such steps, and adopt or cause to be adopted, such measures as are prescribed as appropriate steps to be taken and measures to be adopted in order to control and eradicate the disease mentioned in the notice and to prevent the spread thereof, notwithstanding that such disease may not then exist or appear to exist in the orchard of such owner or occupier.

- (2a) Where an owner or occupier contravenes subsection (2), an inspector may at any time, with or without assistants, enter an orchard referred to in subsection (2) and take any of the steps and measures prescribed under subsection (2) in order to control and eradicate disease and prevent the spread of disease.
- (2b) The expenses of or incidental to any action taken by an inspector under subsection (2a) are recoverable from the person guilty of the breach in any court of competent jurisdiction.
- (3) Any person who fails or neglects to comply in every respect with the provisions of subsection (2) shall be guilty of an offence.

Penalty: \$5 000.

[Section 12⁴ inserted by No. 10 of 1935 s. 3 as s. 8B; amended by No. 22 of 1966 s. 4; No. 55 of 1981 s. 12; No. 51 of 1984 s. 11; No. 40 of 1993 s. 8.]

[12A-12F. Repealed by No. 40 of 1993 s. 9.]

13. Power of entry and search

- (1) Any inspector may at any time —
- (a) with or without assistants, enter any orchard, land, premises or house, or any structure used for the storage of fruit;
 - (b) stop any conveyance or vessel and, with or without assistants, enter into or upon the conveyance or board the vessel,

and may thoroughly search and inspect the same and every part thereof, and everything on or in the same, for the purpose of

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ascertaining whether the same is infected, and may for that purpose examine plants, fruit, coverings, and goods and other things, and dig up plants, open packages, and do all such other things (whether of the same nature as anything mentioned in this subsection or not) as he may deem necessary or expedient.

- (1a) An inspector may, in carrying out his functions under subsection (1), use any means of detection which the inspector considers appropriate including the use of —
- (a) animals trained to detect specific substances; and
 - (b) mechanical apparatus.
- (2) A person who, being in charge of a conveyance or vessel, fails to stop the conveyance or vessel when required so to do by a person who makes himself known as being an inspector, commits an offence against this Act.

[Section 13 inserted by No. 53 of 1962 s. 5; amended by No. 22 of 1966 s. 6; No. 55 of 1981 s. 12; No. 54 of 1981 s. 13; No. 40 of 1993 s. 10.]

14. Steps to be taken by inspector when orchard infected

- (1) Whenever an inspector is satisfied that disease exists on any orchard, land, or premises he may by requisition to the owner and occupier or either of them require them or him to do whatever is necessary in order to eradicate such disease from such orchard, land, or premises and to prevent the spread thereof, and the requisition may specify any particular steps which the inspector requires to be taken.
- (2) Such requisition may name a time by which the doing of anything thereby required shall be commenced and a time within which it shall be completed.
- (3) The owner and occupier, jointly or severally, or the owner or occupier, as the case may be, shall be responsible for due compliance with the requisition, and shall do everything thereby required to be done.

Penalty: \$5 000.

- (4) In case of any default in compliance with the terms of the requisition, any inspector may do or cause to be done all such things as may be necessary in order to carry the terms of the requisition completely into effect, and the expenses incurred in and about so doing shall be recoverable from the person or persons guilty of the default.

[Section 14⁴ amended by No. 22 of 1966 s. 7; No. 55 of 1981 s. 12; No. 51 of 1984 s. 14.]

15. Declaration of infected places

- (1) Whenever it shall appear to the Minister on the report of an inspector or the Director General of Agriculture³ that any disease exists or has within the preceding 3 months existed in any orchard, he may by notice published in the *Gazette*, declare that such orchard, together with such area of land contiguous to or surrounding the same, as he thinks expedient, is infected.
- (2) Such notice shall describe with reasonable particularity the situation and area of the orchard and other land to which such notice relates.
- (3) From the date of the publication of such notice in the *Gazette*, and until the Minister shall by notice published in the *Gazette* otherwise direct, such orchard and other land shall be deemed to be infected, and no plants or fruit shall be removed therefrom except with the permission of an inspector.

[Section 15⁴ amended by No. 53 of 1962 s. 6.]

16. Power to order infected things to be dealt with so as to eradicate disease⁴

- (1) If, as the result of any investigation conducted by him, any inspector shall declare any plant, fruit, covering, goods, conveyance, or vessel to be infected, he shall give notice thereof to the owner or person in charge thereof, and on receipt of such notice such owner or person shall forthwith take such measures and do such acts as are necessary, or as the inspector shall

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declare to be necessary, in order to eradicate or prevent the spread of the disease.

- (2) If such owner or person fails or neglects to take any such measures or do any such acts as aforesaid, any inspector may do the same at the expense in all things of either such owner or such person in charge thereof, as the Minister shall direct.

17. Power to destroy infected plants, coverings etc.

For the purpose of carrying out the objects of this Act an inspector may destroy or otherwise dispose of any —

- (a) trees (bearing fruit or otherwise), plants or fruit which are infected or which he believes to be infected; or
(b) coverings in or with which the trees, plants or fruit have been contained or packed or come in contact.

[Section 17 inserted by No. 40 of 1993 s. 11.]

17A. Powers under the *Agricultural Produce Commission Act 1988*

- (1) Any officers, employees and other persons engaged by a growers' committee under section 12(2) of the *Agricultural Produce Commission Act 1988*⁵ may, when authorised by a growers' committee elected to administer a fruit fly foliage baiting scheme, enter any orchard within the specified area to bait or spray all or any of the fruit trees and fruit vines in the manner and with the materials determined by the growers' committee.
- (2) In subsection (1) "**specified area**" means the portion of the State specified in a notice under section 11(1)(a)(ii) of the *Agricultural Produce Commission Act 1988*⁵ in relation to which the growers' committee is appointed.

[Section 17A inserted by No. 40 of 1993 s. 11.]

18. Power to require owner or occupier of orchard to take steps to prevent spread of disease⁴

- (1) An inspector may, with the approval of the Minister, serve on the occupier and owner of any orchard or place where any plant is growing, or on either of them, a notice requiring them or him

to take any measures or do any acts which the inspector may deem necessary to prevent the spread of any disease, and in such case, even although the orchard or place is not infected, any person on whom any such notice is served shall, as soon as practicable after the receipt thereof, comply with the requisitions thereof.

- (2) In the event of notice being served on both the owner and occupier, they shall be jointly and severally liable to perform the requisitions thereof.
- (3) In case of any default in compliance with the terms of the notice any inspector may do or cause to be done all such things as may be necessary in order to carry the terms of the notice completely into effect, and the expenses incurred in or about so doing shall be recoverable from the person or persons guilty of the default.
- (4) The occupier or owner on whom an inspector serves a notice under subsection (1) may apply to the State Administrative Tribunal for a review of the inspector's decision to serve the notice.

[Section 18 amended by No. 55 of 2004 s. 945.]

[19 and 20. Repealed by No. 40 of 1993 s. 12.]

21. Power to require information

An inspector may require any person having in his possession or charge or under his control —

- (a) fruit or plants;
- (b) any coverings or goods in or with which fruit or plants are or have been contained, packed or in contact;
- (c) any conveyance or vessel in or on which fruit or plants are being or have been carried; or
- (d) any other thing that is or may be infected,

to state his name and address and to answer any question that the inspector considers relevant in relation to the fruit, plants, coverings, goods, conveyance, vessel or other thing.

[Section 21 inserted by No. 55 of 1981 s. 8.]

22. Power to destroy plants in neglected orchards

- (1) Where the Director General considers that an orchard or any part of an orchard is neglected the Director General may report to the Minister who may —
 - (a) serve notice on the owner or occupier of the orchard ordering the removal of the neglected plants; or
 - (b) order the immediate removal of the neglected plants by the Director General.
- (2) Where an owner or occupier fails to comply with a notice served under subsection (1)(a), within the time prescribed in the notice, the Minister may order the destruction of the neglected plants forthwith.
- (3) The Director General may direct that the owner or occupier of the orchard in which plants are destroyed under the authority of and in accordance with this section is liable for the payment of the whole or any part of any expenses incurred in connection with the destruction of the plants.
- (4) The whole or part of any expenses referred to in a direction under subsection (3) are recoverable from the owner or occupier, as the case may be, in any court of competent jurisdiction.
- (5) The owner or occupier who receives a notice under subsection (1)(a) may, within the time specified in the notice, apply to the State Administrative Tribunal for a review of the order.
- [(6) repealed]*
- (7) The making of an application under subsection (5) operates to stay any action by the Minister under subsection (2).
- (8) For the purposes of this section an orchard is deemed to be a neglected orchard where the Director General certifies in

writing that the plants growing in the orchard or part of the orchard are likely to spread disease.

[Section 22 inserted by No. 40 of 1993 s. 13; amended by No. 55 of 2004 s. 946.]

22A. Private inspection and treatment premises may be used

Subject to section 22B an inspector may in private inspection and treatment premises —

- (a) inspect a consignment; and
- (b) take or cause to be taken any action he considers necessary to disinfect, destroy or otherwise treat or dispose of a consignment.

[Section 22A inserted by No. 40 of 1993 s. 13.]

22B. Prescribed standards, conduct and registration of private inspection and treatment premises

- (1) Private inspection and treatment premises must —
 - (a) comply with the prescribed standards;
 - (b) be conducted in the prescribed manner; and
 - (c) be registered under this Act.
- (2) An application for registration of private inspection and treatment premises must be —
 - (a) made by the owner or occupier to the Director General in the prescribed manner; and
 - (b) accompanied by the prescribed fee.
- (3) The Director General may —
 - (a) grant, with or without conditions; or
 - (b) refuse,

an application referred to in subsection (2).

[Section 22B inserted by No. 40 of 1993 s. 13.]

23. Powers to prevent introduction and spread of disease

- (1) In this section and section 22A —
 “consignment” means a consignment of goods or things of any kind that is being or has been carried in or on a conveyance or vessel.
- (2) In order to prevent any disease from being introduced into the State or into any portion of the State, or being spread within the State an inspector may —
- (a) inspect any premises, conveyance, vessel or consignment for the purpose of ascertaining whether there is any potential carrier therein or thereon;
 - (b) seize any potential carrier that is being introduced or attempted to be introduced into the State or into any portion of the State, or being moved or attempted to be moved within the State, in contravention of this Act and disinfect, destroy or otherwise treat or dispose of it as he thinks fit;
 - (c) subject to the regulations, detain a conveyance, vessel or consignment pending the inspection thereof to ascertain whether there is any potential carrier therein or thereon or pending the disinfection or other treatment of the potential carrier;
 - (d) issue to the owner or person in charge of a conveyance, vessel or consignment a notice directing that he take it or cause it to be taken, under quarantine, to a place specified in the notice in order for it to be inspected to ascertain whether there is any disease therein or thereon or for any potential carrier to be disinfected or otherwise treated.
- (2a) For the purposes of carrying out functions under subsection (2), an inspector may —
- (a) enter any premises, conveyance, or vessel;

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- (b) remove part or all of a consignment, package, container or any other thing from the control of the person apparently in charge of it;
 - (c) open any container or package.
 - (3) Any expenses incurred by an inspector in disinfecting, destroying or otherwise disposing of or treating any plant or covering or in disinfecting or treating any conveyance or vessel pursuant to subsection (2) shall be met by the owner or person in charge thereof, as the Minister shall direct.
 - (4) An inspector may after inspecting any conveyance, vessel or consignment, whether or not that conveyance, vessel or consignment is infected, —
 - (a) treat it in order to eradicate disease or to lessen the risk of the spread of disease;
 - (b) detain it pending the treatment of it for the purposes mentioned in paragraph (a); or
 - (c) issue to the owner or person in charge of it a notice directing that he take it or cause it to be taken, under quarantine, to a place specified in the notice in order for it to be treated for the purposes mentioned in paragraph (a).
 - (5) A person who contravenes or fails to comply with a notice issued under subsection (2)(d) or subsection (4)(c) commits an offence against this Act.
 - (6) Section 34(2) and (3) do not apply in relation to the movement of any plant, fruit, goods, coverings or thing pursuant to and in accordance with a notice issued under subsection (2)(d) or subsection (4)(c).
 - (7) The provisions of this section are in addition to and not in derogation of any other provisions of this Act conferring powers upon inspectors.

[Section 23 inserted by No. 55 of 1981 s. 9; amended by No. 51 of 1984 s. 16; No. 40 of 1993 s. 14; No. 19 of 2001 s. 4.]

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23A. Minister may give directions for urgent measures to control disease

- (1) Where, in the opinion of the Minister, a procedure must be carried out immediately to —
- (a) prevent the introduction into the State or into any part of the State of a disease affecting plants;
 - (b) eradicate and control disease; or
 - (c) prevent the spread of disease,
- the Minister may, in writing, direct an inspector, with or without assistants, to enter any property in order to carry out that procedure forthwith.
- (2) A direction referred to in subsection (1) must specify —
- (a) the proposed procedure;
 - (b) where there is a procedure prescribed in the regulations, the manner in which the proposed procedure is different from or varies the prescribed procedure; and
 - (c) the period, being not more than 8 weeks, during which the direction remains in force.
- (3) In subsection (2) “**proposed procedure**” means a procedure approved by the Director General.

[Section 23A inserted by No. 40 of 1993 s. 15.]

23B. The Minister may approve an alternative procedure

- (1) Where satisfied that the procedure is appropriate, the Director General may grant temporary approval for an alternative procedure to be implemented from that prescribed in the regulations for the movement of a potential carrier into the State or into or out of any part of the State.

[(2) repealed]

- (3) An approval granted under subsection (1) must specify —
- (a) the alternative procedure;

- (b) any chemical to be used in the alternative procedure; and
- (c) the period, being not more than 8 weeks, during which the approval remains in force.

[Section 23B inserted by No. 40 of 1993 s. 15; amended by No. 24 of 2000 s. 32.]

23C. Procedures specified under section 23A or 23B may be prescribed in regulations

- (1) The Director General may seek the approval of the Minister to cause the procedure specified in —
 - (a) a direction under section 23A; or
 - (b) an approval under section 23B,to be prescribed in the regulations.
- (2) Regulations made under subsection (1)(a) may prescribe the manner in which an inspector, with or without assistants, may enter a property and carry out the procedure.
- (3) A direction under section 23A or an approval under section 23B ceases to have effect on the day on which regulations made under this section in relation to that direction or approval, as the case may be, come into operation.

[Section 23C inserted by No. 40 of 1993 s. 15.]

23D. Person to declare any plants or potential carriers

- (1) In order to prevent any disease from being introduced into the State or into any part of the State every person entering the State in a prescribed manner must lodge a declaration in the prescribed form with an inspector at the nearest point of entry.
- (2) A declaration referred to in subsection (1) must —
 - (a) specify any potential carrier which the person is bringing into the State;
 - (b) contain the information required by the form; and

- (c) be signed in the manner specified in the form.
- (3) An inspector may destroy any potential carrier brought into the State and the expenses incurred in disinfecting, destroying or otherwise disposing of or treating any potential carrier or in disinfecting or treating any container, vessel or conveyance in which the potential carrier was carried must be met by the owner or person in charge of the potential carrier, as the Director General directs.
- (4) Where the owner or person in charge of the potential carrier, as the case may be, fails to meet the expenses of or incidental to any action taken by an inspector under subsection (3), the whole or any part of those expenses are recoverable from the owner or person in charge of the potential carrier in any court of competent jurisdiction.
- (5) For the purposes of this section —
- “nearest point of entry”** in relation to a person entering the State —
- (a) on a vessel, means the first port of entry for the vessel or where the vessel is an aircraft, the first airport at which the aircraft lands; and
- (b) in any conveyance or on foot, means the nearest prescribed inspection point;
- “vessel”** means any ship, boat, aircraft or other description of vessel used in navigation by sea or air.
- (6) A person who fails to lodge a declaration as required by subsection (1) commits an offence.

[Section 23D inserted by No. 40 of 1993 s. 15.]

24. Recovery of expenses

When any person is liable for any expenses incurred under this Act, such expenses shall be a charge on any orchard, land or premises in respect of which they have been incurred, and any such expenses, whether so charged or not, may be recovered by

action brought by the Crown in any court of competent jurisdiction.

[Section 24⁴ amended by No. 40 of 1993 s. 16.]

25. Payment for work done as between owner and occupier⁴

- (1) Any owner who does or pays for the doing of any work pursuant to this Act in respect of any orchard, land, or premises which are occupied by another person shall, subject to any agreement between him and that person, be entitled to recover from such person as a debt the cost of the work so done or the amount so paid, if he proves that the work was rendered necessary through no fault of his own or of any person for whose acts or default he was responsible, but solely or mainly through the fault of the occupier or some person for whose acts or default the occupier was responsible.
- (2) Any occupier who does or pays for the doing of any work pursuant to this Act in respect of any orchard, land, or premises of which he is not the owner, shall, subject to any agreement between him and the owner, be entitled to recover from the owner as a debt the cost of the work so done or the amount so paid, if he proves that the work was rendered necessary through no fault of his own or of any person for whose act or default he was responsible, but solely or mainly through the fault of the owner or some person for whose acts or default the owner was responsible.
- (3) The amount of the debt recoverable by the occupier may be set off against rent due or to accrue due by him to the owner.

26. Penalty if owner or occupier hinders the other

Any owner of any orchard, land, or premises which is in the occupation of another person shall have full right of entry on and into the same, and of remaining thereon and therein for the purpose of doing anything which he is required to do under or pursuant to this Act, and if in the performance of any duty or obligation imposed on him by or under this Act the owner of

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any orchard, land or premises is in any way obstructed or hindered by the occupier, or the occupier by the owner, the one who obstructs or hinders the other shall be liable to a daily penalty not exceeding \$200.

[Section 26⁴ amended by No. 22 of 1966 s. 9; No. 55 of 1981 s. 12; No. 20 of 1989 s. 3.]

27. Employment of assistants⁴

Any inspector may employ such assistants as he deems necessary in carrying out the provisions of this Act.

28. Use of force in case of resistance⁴

For the purpose of making an entry or removal, or otherwise performing his duties under this Act, any inspector or assistant may, in case of resistance, use all necessary force.

29. Persons obstructing officers

- (1) Every person commits an offence against this Act who directly or indirectly obstructs, hinders or interrupts, or threatens, or assaults, or uses improper or abusive language to any inspector or assistant whilst in the performance of his duty under this Act.

Provided that no proceedings for the recovery of any penalty for such offence, nor the payment thereof, shall be a bar to any action at law by any such inspector or assistant.

- (2) A person who, without reasonable excuse, fails to give to any inspector acting in the execution of this Act any information which the inspector is expressly authorised by this Act to require or may reasonably require, or who, when required to give any such information, makes any statement that is false or misleading in a material particular, shall be treated as having obstructed the inspector.

[Section 29⁴ amended by No. 55 of 1981 s. 10.]

30. Officers not to be trespassers⁴

No inspector or assistant shall be deemed to be a trespasser by reason of any entry or removal under this Act, or be liable for any damage occasioned in carrying out the provisions of this Act.

31. Notices to be given in writing⁴

Any notice to be given to any person under or pursuant to this Act or any regulation must be given in writing either by delivering the same to such person, or by leaving the same at or posting the same addressed to him at his usual or last known place of abode or business in Western Australia, or, if he is unknown or has no place of abode and no place of business in the State, or cannot be found in Western Australia, then by affixing such notice in a conspicuous place on the land to which such notice relates.

32. Persons not entitled to compensation⁴

No person shall be entitled to any compensation whatsoever in respect of anything done by any inspector or other officer or assistant or any other person in the discharge of any duty or obligation under this Act or any regulation, or in respect of any measure taken in order to eradicate or prevent the spread of disease or carry out the provisions of this Act or any regulation, or in respect of any loss or injury that may directly or indirectly result therefrom.

32A. Removal of plants from quarantine prohibited

- (1) An inspector may direct that any potential carrier whether brought into the State or not be placed in quarantine.
- (2) No potential carrier that is required to be placed in quarantine pursuant to this Act or under this Act or regulations made under this Act shall, until released from quarantine, be moved, dealt with or interfered with except by authority and in accordance with this Act and the regulations.

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- (3) A person who contravenes subsection (2) commits an offence against this Act.

[Section 32A inserted by No. 51 of 1984 s. 17.]

33. Offences

Every person commits an offence against this Act who, directly or indirectly, by himself, his servant or agent —

- (1) sells or offers or exposes for sale or supplies or otherwise disposes of any plant, fruit, goods, covering or thing which is or are diseased or infected, or (except under the direction of an inspector) brings or suffers to be brought upon, or removes or suffers to be removed from his premises any such plant, fruit, goods, covering, or thing contrary to this Act or a regulation made under this Act; or
- (2) sells or offers or exposes for sale or supplies or otherwise disposes of any plant, fruit, goods, covering, or thing which has or have been introduced into Western Australia in breach of any proclamation under this Act or a regulation made under this Act, or (except under the direction of any inspector) brings or suffers to be brought upon, or removes or suffers to be removed from his premises any such plant, fruit, goods, covering, or thing.

[Section 33⁴ amended by No. 51 of 1984 s. 18.]

34. Penalties

- (1) Every person who commits any offence against this Act shall (unless another penalty is specified for the offence) be liable on summary conviction to a penalty as follows —
- (a) in the case of a natural person —
- (i) for a first offence, to a maximum penalty of \$3 000;

- (ii) for a second offence, a maximum penalty of \$5 000;
 - (iii) for a third or subsequent offence, to a maximum penalty of \$10 000 or imprisonment for a period of 12 months or both;
- (b) in the case of a body corporate —
 - (i) for a first offence to a maximum penalty of \$10 000;
 - (ii) for a second offence to a maximum penalty of \$25 000; and
 - (iii) for a third or subsequent offence to a maximum penalty of \$50 000.
- (2) A person who attempts to commit an offence against this Act is guilty of an offence against this Act.
- (3) A person who omits or neglects to perform any duty or obligation imposed on him by this Act is guilty of an offence against this Act.

[Section 34⁴ amended by No. 22 of 1966 s. 10; No. 55 of 1981 s. 12; No. 51 of 1984 s. 19; No. 20 of 1989 s. 3; No. 50 of 2003 s. 83(2).]

35. Infringement notices

- (1) A reference in subsection (2), (3), (5) or (7) to an “**authorised person**” is a reference to a person appointed under subsection (11) to be an authorised person for the purposes of the subsection in which the term is used.
- (2) An authorised person who has reason to believe that a person has committed a prescribed offence against this Act may, within 21 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (3) An infringement notice must be in the prescribed form and must in every case —

- (a) contain a description of the alleged offence;
 - (b) advise that if the alleged offender does not wish to be prosecuted for the alleged offence in a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the notice; and
 - (c) inform the alleged offender as to who are authorised persons for the purposes of receiving payment of modified penalties.
- (4) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice must be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- (5) An authorised person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.
- (6) Where the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.
- (7) An authorised person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (8) Where an infringement notice has been withdrawn after the modified penalty has been paid, the amount must be refunded.
- (9) An amount paid as a modified penalty must, subject to subsection (8), be credited to the Plant Diseases Modified Penalties Revenue Fund established under section 35AA.

- (10) Payment of a modified penalty must not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.
- (11) The Director General may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of subsection (2), (3), (5) or (7) or for the purposes of 2 or more of those subsections, but a person who is authorised to give infringement notices under subsection (2) is not eligible to be an authorised person for the purposes of any of the other subsections.
- (12) The Director General must issue to each person who is authorised to give infringement notices under this section a certificate stating that the person is so authorised, and the authorised person must produce the certificate whenever required to do so by a person to whom he has given or is about to give an infringement notice.

[Section 35 inserted by No. 40 of 1993 s. 17; amended by No. 49 of 1996 s. 64; No. 84 of 2004 s. 80.]

35AA. Modified penalties revenue fund

- (1) There is to be established and kept at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account called the “Plant Diseases Modified Penalties Revenue Fund” (referred to in this section and section 35AB as the “**Fund**”).
- (2) The Director General must ensure that all money received in the Department of Agriculture as payment of modified penalties or other amounts in connection with infringement notices given under section 35 is credited to the Fund.

[Section 35AA inserted by No. 40 of 1993 s. 17; amended by No. 49 of 1996 s. 64; No. 57 of 1997 s. 95.]

s. 35AB

35AB. Use of money in the Fund

- (1) Money standing to the credit of the Fund may be applied towards —
 - (a) the enforcement of this Act including the operation of the infringement notice system under section 35;
 - (b) the cost of measures to prevent or eradicate pests and diseases affecting plants and plant products;
 - (c) the cost of programmes to promote public awareness of the requirements of this Act; and
 - (d) purposes that the Minister considers will promote and encourage plant production.
- (2) The amount that is to be charged to the Fund for the purposes specified in subsection (1)(a) is to be determined annually by the Director General and no amount is to be charged for those purposes except as so determined.
- (3) No amount is to be charged to the Fund for any purpose specified in subsection (1)(b) to (d) except as determined by the Minister.

[Section 35AB inserted by No. 40 of 1993 s. 17; amended by No. 49 of 1996 s. 64.]

35AC. Limitation period

Notwithstanding anything in any Act, proceedings for an offence against this Act may be brought within 3 years after the commission of the offence or, with the consent of the Attorney General, at a later time not exceeding 6 years from the commission of the offence.

[Section 35AC inserted by No. 40 of 1993 s. 17.]

35A. Liability of directors

- (1) Where a corporation is convicted of an offence against this Act, every person who at the time of the commission of the offence was —

- (a) a director or member of the governing authority of the corporation;
- (b) a person, other than a person giving advice to the directors in his professional capacity, in accordance with whose directions the corporation is accustomed to act; or
- (c) an officer concerned in the management of the corporation,

and who authorised or permitted the commission of the offence, is guilty of the like offence.

- (2) A person referred to in subsection (1) may, on the request of the prosecutor, be convicted on the proceedings on which the corporation is convicted if the court is satisfied that the person had reasonable notice that the prosecutor intended to make that request.

[Section 35A inserted by No. 51 of 1984 s. 21; amended by No. 84 of 2004 s. 80.]

35B. Liability of principal for acts of agent

- (1) Notwithstanding any other law or rule of law, where any person (in this section referred to as “**the agent**”) acting, otherwise than as an employee, for or on behalf of another person (in this section referred to as “**the principal**”) commits an offence against this Act the principal is guilty of an offence against this Act in like manner as the agent and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and that he took all reasonable precautions and used all due diligence to avoid the commission of the offence.
- (2) The principal may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the agent has not been proceeded against or has not been convicted under this Act.

s. 35C

- (3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 35B inserted by No. 51 of 1984 s. 21.]

35C. Liability of employer for offence of employee

- (1) Notwithstanding any other law or rule of law, where any person, as the employee of another person (in this section referred to as “**the employer**”) commits an offence against this Act, the employer is guilty of an offence against this Act in like manner as the employee (whether or not the offence was committed without his authority or contrary to his orders or instructions) and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and could not, by the exercise of diligence, have prevented the commission of the offence.
- (2) The employer may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the employee has not been proceeded against or has not been convicted under this Act.
- (3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 35C inserted by No. 51 of 1984 s. 21.]

36. Onus of proof⁴

In all proceedings taken against any person for any offence against this Act, the averments of the prosecutor contained in a sworn prosecution notice shall be deemed to be proved in the absence of proof to the contrary.

[Section 36 amended by No. 84 of 2004 s. 80.]

37. Proof of knowledge⁴

Whenever in any such prosecution knowledge must be shown, such knowledge shall be presumed, unless and until the contrary

is proved and the accused satisfies the Court that the want of knowledge was reasonable, and was in no way imputable to negligence on the part of himself, his servant or agent.

[Section 37 amended by No. 84 of 2004 s. 82.]

38. Proof of ownership or occupancy

- (1) In any legal proceedings under this Act, in addition to any other method of proof available —
- (a) evidence that the person proceeded against is rated as owner or occupier of any land by the local government of the district within which such land is situated; or
 - (b) evidence by the certificate of —
 - (i) the Registrar of Deeds and Transfers or his substitute or any assistant registrar of deeds and transfers that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (ii) the Registrar of Titles, or any assistant registrar, that any person's name appears in the Register under the *Transfer of Land Act 1893*, as owner of any land; or
 - (iii) 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 any person is registered in the department as the lessee or occupier of any land,
- shall, until the contrary is proved, be evidence that such person is the owner, or occupier, as the case may be, of such land.
- (2) All courts and all persons having by law, or by consent of parties, authority to hear, receive, and examine evidence shall, for the purposes of this Act, take judicial notice of the signature

attached to such certificate, and on the written application of the Director General of Agriculture³, a certificate giving the name and address of such owner, or occupier, the situation and description of such land, and date of registration of title, shall be furnished by the proper officer.

[Section 38⁴ amended by No. 3 of 1949 s. 4; No. 53 of 1962 s. 7; No. 63 of 1981 s. 4; No. 14 of 1996 s. 4; No. 81 of 1996 s. 153(1); No. 60 of 2006 s. 148.]

39. Regulations

- (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to prescribe for giving effect to this Act.
- (2) Without limiting the generality of any of the above provisions, it is declared that the Governor may by regulations —
 - (a) prescribe the manner in which plants, fruit, coverings, goods, conveyances, vessels or other things shall (whether infected or not) be treated in order to eradicate disease or to lessen the risk of the spread of disease;
 - (aa) regulate the manner of and procedures for the stopping and inspecting by any inspector of conveyances and vessels under the provisions of this Act;
 - (ab) regulate the detention of conveyances, vessels and other things pending inspection or disinfection or other treatment under this Act;
 - (ac) regulate the issue of notices under section 23(2)(d) and (4)(c);
 - (b) prescribe conditions under which any potential carrier may be brought into the State and provide that the breach of any such condition constitutes an offence;
 - (ba) provide for the quarantine, examination and certification of any potential carrier whether brought into the State or

- not, and provide for the seizure and destruction of any potential carrier found to be infected;
- (bb) prescribe places to be the places at which plants or fruit are permitted to enter the State;
 - (bc) prohibit, restrict or regulate the movement of any plant or fruit, conveyance, vessel, coverings or other things whether infected or not, into the State or into or out of any specified part of the State;
 - (bd) provide for the management of quarantine areas and for the treatment and period of treatment, of plants or fruit in quarantine areas and prohibit the removal therefrom of, and interference with, any such plants or fruit;
 - (be) prescribe all necessary forms and the manner of, and time for, their completion and require any information or certificate supplied pursuant to the regulations to be verified by statutory declaration;
 - (bf) for the purposes of section 22B —
 - (i) provide for —
 - (I) the standards required in private inspection and treatment premises;
 - (II) the conduct of private inspection and treatment premises;
 - (III) the registration, or classes of registration, of private inspection and treatment premises;
 - (IV) the annual renewal of any registration referred to in subparagraph (III);
 - (V) the imposition of conditions (if any) on the registration of private inspection and treatment premises; or
 - (VI) the suspension or cancellation by the Director General of the registration of any private inspection and treatment premises at any time if they are not

- operated in accordance with the regulations;
- (ii) prescribe facilities and the standards of design and construction required under subsection (1) of that section; and
 - (iii) prescribe the fees payable under subsection (2)(b) of that section;
- (bg) prescribe the procedures that may be specified in —
- (i) a direction under section 23A; and
 - (ii) an approval under section 23B;
- (bh) prescribe the form of declaration required under section 23D(1);
- (c) prescribe the matters in respect of which fees or charges shall be payable under this Act, and fix the amounts of such fees or the permissible limits, of such fees or charges and the mode of payment and recovery thereof;
- (d) require the occupiers of plant nurseries to fumigate and disinfect all plants before the same are sent out from the nurseries, and prescribe the manner of such fumigation and disinfection;
- (e) require coverings containing fruit or plants to be branded or labelled, and prescribe the manner of such branding or labelling;
- (f) regulate the sale of insecticides and fungicides and preparations for the destruction of any disease which commonly attacks or is found on plants, and compel vendors of the same to supply to purchasers particulars of the ingredients thereof and to guarantee the truth of the particulars supplied;
- (fa) prescribe the offences for which an infringement notice may be given under section 35;
- (fb) prescribe a modified penalty for an offence prescribed under paragraph (fa);

- (g) impose a penalty not exceeding \$5 000 for the breach of any regulation.
- (3) Section 43(8)(c) of the *Interpretation Act 1984* shall be deemed to be amended for the purposes of this section by deleting “a specified person or body or a specified class of person or body” and substituting the following —

“

the Director General of Agriculture³ or a person authorised by him.

”.

[Section 39⁴ amended by No. 3 of 1949 s. 5; No. 45 of 1952 s. 2; No. 60 of 1958 s. 4; No. 53 of 1962 s. 8; No. 22 of 1966 s. 11; No. 94 of 1972 s. 4 (as amended by No. 19 of 1973); No. 64 of 1979 s. 6; No. 55 of 1981 s. 11; No. 51 of 1984 s. 22; No. 20 of 1989 s. 3; No. 40 of 1993 s. 18.]

40. Judicial notice to be taken of regulations and proclamations⁴

All courts and magistrates shall take judicial notice of all regulations and proclamations under this Act.

[41. Repealed by No. 31 of 1965 s. 3.]

[Schedule repealed by No. 64 of 1979 s. 7.]

Notes

- ¹ This is a compilation of the *Plant Diseases Act 1914* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Plant Diseases Act 1914</i>	23 of 1914	22 Sep 1914	29 Dec 1914 (see s. 1 and <i>Gazette</i> 24 Dec 1914 p. 4655)
<i>Plant Diseases Act Amendment Act 1925</i>	4 of 1925	24 Sep 1925	24 Sep 1925
<i>Plant Diseases Act Amendment Act 1926</i>	6 of 1926	7 Oct 1926	7 Oct 1926
<i>Plant Diseases Act Amendment Act 1933</i>	21 of 1933	13 Nov 1933	13 Nov 1933
<i>Plant Diseases Act Amendment Act 1935</i>	10 of 1935	24 Oct 1935	24 Oct 1935
<i>Plant Diseases Act Amendment Act 1939</i>	5 of 1939	5 Oct 1939	5 Oct 1939
Reprint of the <i>Plant Diseases Act 1914</i> in Volume 2 of Reprinted Acts (includes amendments listed above)			
<i>Plant Diseases Act Amendment Act 1946</i>	25 of 1946	14 Jan 1947	14 Jan 1947
<i>Plant Diseases Act Amendment Act 1947</i>	35 of 1947	1 Dec 1947	1 Dec 1947
<i>Plant Diseases Act Amendment Act (No. 2) 1949</i>	3 of 1949	24 Aug 1949	24 Aug 1949
<i>Plant Diseases Act Amendment Act 1949</i>	11 of 1949	14 Sep 1949	14 Sep 1949
<i>Plant Diseases Act Amendment Act 1950</i>	3 of 1950	15 Nov 1950	15 Nov 1950
<i>Plant Diseases Act Amendment Act 1952</i>	45 of 1952	18 Dec 1952	18 Dec 1952
<i>Plant Diseases Act Amendment Act 1954</i>	57 of 1954	23 Dec 1954	23 Dec 1954

Short title	Number and year	Assent	Commencement
<i>Plant Diseases Act Amendment Act 1956</i>	4 of 1956	3 Oct 1956	3 Oct 1956
<i>Plant Diseases Act Amendment Act 1958</i>	7 of 1958	29 Sep 1958	1 Jul 1959 (see s. 2 and <i>Gazette</i> 26 Mar 1959 p. 820)
<i>Plant Diseases Act Amendment Act (No. 2) 1958</i>	60 of 1958	24 Dec 1958	1 Jul 1959 (see s. 2 and <i>Gazette</i> 26 Mar 1959 p. 820)
Reprint of the <i>Plant Diseases Act 1914</i> approved 9 Jun 1959 in Volume 14 of Reprinted Acts (includes amendments listed above)			
<i>Plant Diseases Act Amendment Act 1960</i>	34 of 1960	1 Nov 1960	1 Nov 1960
<i>Plant Diseases Act Amendment Act 1962</i>	53 of 1962	20 Nov 1962	20 Nov 1962
<i>Plant Diseases Act Amendment Act 1965</i>	31 of 1965	21 Oct 1965	21 Oct 1965
<i>Plant Diseases Act Amendment Act 1966</i>	22 of 1966	17 Oct 1966	17 Oct 1966
<i>Plant Diseases Act Amendment Act 1967</i>	39 of 1967	21 Nov 1967	21 Nov 1967
<i>Plant Diseases Act Amendment Act 1969</i>	7 of 1969	6 May 1969	13 Jun 1969 (see s. 2 and <i>Gazette</i> 13 Jun 1969 p. 1765)
<i>Plant Diseases Act Amendment Act (No. 2) 1969</i>	68 of 1969	27 Oct 1969	27 Oct 1969
Reprint of the <i>Plant Diseases Act 1914</i> approved 8 Jul 1971 (includes amendments listed above)			
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 and 83 of 1973, 42 of 1975)	4 Dec 1972	Relevant amendments (see Second Sch. ¹⁰) took effect on 22 Mar 1974 (see s. 4(2) and <i>Gazette</i> 22 Mar 1974 p. 966)
<i>Plant Diseases Act Amendment Act 1974</i>	3 of 1974	19 Sep 1974	22 Nov 1974 (see s. 2 and <i>Gazette</i> 22 Nov 1974 p. 5090)
<i>Plant Diseases Act Amendment Act 1978</i>	52 of 1978	6 Sep 1978	6 Sep 1978

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Short title	Number and year	Assent	Commencement
<i>Plant Diseases Act Amendment Act 1979</i>	64 of 1979	21 Nov 1979	21 Dec 1979 (see s. 2 and <i>Gazette</i> 21 Dec 1979 p. 3909)
<i>Plant Diseases Amendment and Repeal Act 1981</i> ¹¹	55 of 1981	13 Oct 1981	13 Oct 1981
<i>Acts Amendment (Statutory Designations) and Validation Act 1981</i> s. 4	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Plant Diseases Amendment Act 1984</i>	51 of 1984	5 Sep 1984	7 Apr 1989 (see s. 2 and <i>Gazette</i> 7 Apr 1989 p. 1013)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<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)
Reprint of the <i>Plant Diseases Act 1914</i> as at 25 Sep 1991 (includes amendments listed above)			
<i>Plant Diseases Amendment Act 1993</i> ¹²	40 of 1993	20 Dec 1993	s. 3, 6-12, 16, 19-21: 24 Jun 1994 (see s. 2 and <i>Gazette</i> 24 Jun 1994 p. 2819); s. 15: 23 Jul 1994 (see s. 2 and <i>Gazette</i> 22 Jul 1994 p. 3727); balance: 1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4947)
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	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</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Transfer of Land Amendment Act 1996</i> s. 153(1)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 95</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 2000 s. 32</i>	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
<i>Plant Diseases Amendment Act 2001</i>	19 of 2001	1 Nov 2001	1 Nov 2001 (see s. 2)
Reprint of the <i>Plant Diseases Act 1914</i> as at 21 Dec 2001 (includes amendments listed above)			
<i>Sentencing Legislation Amendment and Repeal Act 2003 s. 83</i>	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 104¹³</i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80 and 82</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. 148</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Financial Legislation Amendment and Repeal Act 2006 s. 17¹⁴</i>	77 of 2006	21 Dec 2006	To be proclaimed (see s. 2(1))

² Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).

³ Formerly referred to the Director of Agriculture, the name of whom was changed to the Director General of Agriculture by the *Agriculture Act 1988* s. 16. The reference was changed under the *Reprints Act 1984* s. 7(3)(h).

⁴ In this compilation the renumbering of sections effected in the 1943 reprint (in volume 2 of the Reprinted Acts of the Parliament of Western Australia) and retained in subsequent reprints has again been retained. References to the original numbering are contained in the 1943 reprint.

⁵ Formerly referred to the *Horticultural Produce Commission Act 1988* the short title of which was changed to the *Agricultural Produce Commission Act 1988* by the *Horticultural Produce Commission Amendment Act 2000* s. 5. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

⁶ Under the *Public Sector Management Act 1994* the names of offices may be changed. This formerly read “Under Secretary for Lands” and on a previous reprint it was changed under the *Reprints Act 1984* s. 7(3)(h). At the time of this reprint the chief executive officer of the Department of Land Administration is called the Chief Executive.

⁷ Under the *Acts Amendment (Public Service) Act 1987* s. 31(1)(f) a reference in a written law to “Permanent Head” is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to “chief executive officer”. This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

⁸ Under the *Alteration of Statutory Designations Order (No. 2) 2001* a reference in a written law to the Department of Mines is read and construed as a reference to the Department of Mineral and Petroleum Resources.

⁹ Under the *Public Sector Management Act 1994* the names of departments may be changed. At the time of this reprint the former Department of Lands and Surveys is called the Department of Land Administration and its administrative head is called the Chief Executive. The reference was changed under the *Reprints Act 1984* s. 7(3)(h).

¹⁰ The Second Schedule was inserted by the *Metric Conversion Amendment Act 1973*.

¹¹ The *Plant Diseases Amendment and Repeal Act 1981* s. 6(2) and (3) and s. 14 read as follows:

“

- (2) Any fruit fly foliage baiting scheme which was introduced before the date of the coming into operation of this Act and which has not been wound up before that date shall be continued for the period commencing on that date and ending when the scheme is either

wound up or continued pursuant to section 12C(1) of the principal Act as amended by this section.

- (3) A scheme to which subsection (2) of this section applies shall be administered, during the period mentioned in that subsection, by the Committee that was administering it immediately before the coming into operation of this Act, and any casual vacancy in the office of a member of the Committee, other than the Chairman, shall be filled by the appointment in accordance with the regulations of a person who is, at the time of his appointment, the occupier of an orchard situated in the district according to the records maintained by the Committee pursuant to section 12C(1)(db) of the principal Act as amended by this Act.

14. Refund of certain fees

- (1) In this section —
“**Director**” means the Director General of Agriculture³;
“**registration fees**” means fees paid pursuant to the *Orchard Registration Regulations 1959* as in force at any time before the coming into operation of this Act.
- (2) The owner or occupier of an orchard may apply to the Director for the refund of registration fees paid in respect of that orchard to the extent to which those fees relate to —
- (a) the period from the coming into operation of this Act to 30 June next following; or
 - (b) the year commencing on 1 July next following the coming into operation of this Act or any succeeding year.
- (3) Where an application for a refund of registration fees is made pursuant to subsection (1) of this section and it appears to the Director —
- (a) that the applicant is a person to whom the refund may properly be made; and
 - (b) that the fees the subject of the application amount to not less than \$5,
- the Director shall refund the fees to the applicant.
- (4) Notwithstanding section 9 of the principal Act as amended by this Act The Fruit Fly Eradication Fund may be used and applied for the making of refunds under this section.

”.

¹² The *Plant Diseases Amendment Act 1993* s. 19 (which gives effect to Sch. 1) and 21 read as follows:

“

19. Transitional and savings provisions — Schedule 1

- (1) Schedule 1 clause 2 has effect in relation to the repeal effected under section 6.
- (2) Schedule 1 clause 3 has effect in relation to the repeals effected under section 9.

”

Schedule 1 reads as follows:

“

Schedule 1

[section 19]

Transitional and savings provisions

1. Definitions

In this Schedule “**Committee**” means a Committee appointed under section 12C of the principal Act and in existence immediately before 30 June 1994.

2. Repeal effected under section 6

- (1) In this clause “**Commencement**” means the commencement of section 6 of this Act.
- (2) Any moneys which were immediately before the Commencement standing to the credit of The Fruit Fly Eradication Fund established under section 9 of the principal Act must on the Commencement be credited to the Consolidated Fund.

3. Repeal effected under section 9

On 30 June 1994 —

- (a) any Committee is abolished;
- (b) any fruit fly foliage baiting scheme in existence immediately before that date is deemed to have been wound up;
- (c) any vehicles, plant, equipment or materials vested in a Committee vest in the Minister; and
- (d) the Minister must —

- (i) cause any moneys held by, or due to, a Committee to be appropriated from that Committee;
- (ii) if there are any debts due and owing by a Committee cause any moneys appropriated from that Committee under subparagraph (i) to be applied to the payment of those debts and any balance remaining after that application to be credited to the Consolidated Fund or as directed by the Minister; and
- (iii) if there are no debts due and owing by a Committee cause any moneys appropriated from that Committee under subparagraph (i) to be credited to the Consolidated Fund or as directed by the Minister.

”.

“

21. Condonation

The failure of any Committee, appointed under section 12C of the principal Act and in existence at any time during the period commencing on 1 July 1986 and ending on the commencement of this Act, to comply with *Division 14* of Part II of the *Financial Administration and Audit Act 1985* during that period is condoned.

”.

¹³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

¹⁴ On the date as at which this compilation was prepared, the *Financial Legislation Amendment and Repeal Act 2006* s. 17, which gives effect to Sch. 1, had not come into operation. It reads as follows:

“

17. Various Acts amended

Schedule 1 sets out amendments to various Acts.

”.

Schedule 1 cl. 128 reads as follows:

“

Schedule 1 — Amendments to various Acts

[s. 17]

128. Plant Diseases Act 1914

- (1) Section 35AA(1) is repealed and the following subsection is inserted instead —

“

- (1) An agency special purpose account called the Plant Diseases Modified Penalties Revenue Account (in this section and section 35AB referred to as the “**Account**”) is established under section 16 of the *Financial Management Act 2006*.

”

- (2) The provisions listed in the Table to this subclause are amended by deleting “Fund” and inserting instead —

“ Account ”.

Table

s. 35(9)	s. 35AB(2)
s. 35AA(2)	s. 35AB(3)
s. 35AB(1)	

”