



Western Australia

Agriculture and Related Resources Protection Act 1976

Agriculture and Related Resources Protection (Fencing) Regulations 1985

As at 06 Jun 2003

Version 01-a0-08

Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Agriculture and Related Resources Protection (Fencing) Regulations 1985

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Defined Terms



Reprinted under the
Reprints Act 1984 as at
6 June 2003

Western Australia

Agriculture and Related Resources Protection Act 1976

Agriculture and Related Resources Protection (Fencing) Regulations 1985

Part I — Preliminary

1. Citation

These regulations may be cited as the *Agriculture and Related Resources Protection (Fencing) Regulations 1985*¹.

2. Interpretation

- (1) In these regulations, unless the contrary intention appears —
approved means approved by the Protection Board or an authorised person;
motor traffic pass has the meaning attributed to it in section 6 of the *Local Government Act 1960*²;
other body means any person or body to whom or to which a delegation has been made for the control and maintenance of a barrier fence, under regulation 5.
- (2) A reference in these regulations to the Protection Board may be read as a reference to the Minister.

Part II — Barrier fences

3. Powers of the Protection Board

- (1) The Protection Board may —
- (a) erect, improve, alter, maintain, repair or renew; or
 - (b) dismantle or remove,
- a barrier fence, and dispose of such a fence by sale or otherwise at the discretion of the Protection Board.
- (2) For the purposes of subregulation (1) the Protection Board by its officers, employees and agents may, in addition to the powers of entry provided in the Act —
- (a) cut timber and conduct earthworks;
 - (b) clear the land on each side of any barrier fence,
- but nothing herein contained shall empower —
- (c) the destruction of fruit trees, trees used for shade, windbreaks or ornament, or trees used to prevent erosion or degradation of the soil;
 - (d) the removal of buildings.

4. Ownership and control of barrier fences

A barrier fence erected by the Protection Board is the property of the Crown and the control of a barrier fence shall be exercised by the Protection Board which may delegate control and maintenance of any barrier fence to —

- (a) a council;
- (b) a regional council, as defined in section 696(2) of the *Local Government Act 1960*²; or
- (c) any other person,

by notice in writing and subject to any conditions contained in that notice.

5. Consent for use of barrier fence

A person shall not make use of, interfere with or attach anything to a barrier fence, unless he has obtained the consent in writing of the Protection Board or other body.

Penalty: \$200.

[6, 7. Deleted in Gazette 28 Oct 1994 p. 5461.]

8. Offence, damage, etc.

A person shall not —

- (a) destroy or damage any portion of a barrier fence, or gate or motor traffic pass in a barrier fence;
- (b) leave a gate in a barrier fence open after opening or passing through that gate;
- (c) carry, drive or pass any live declared animal through, under or over any barrier fence; or
- (d) attach any animal trap, diversionary wing fence, gate, wire netting or other attachment to any barrier fence, without the prior written consent of the Protection Board or other body.

Penalty: \$200.

9. Offence, driving stock along fence, etc.

(1) A person shall not —

- (a) drive, or cause to be driven, any stock along or over Crown land adjoining a barrier fence and reserved for the protection and maintenance of the fence;
- (b) confine, encamp or keep, or cause to be confined, encamped or kept, stock against or in proximity to a barrier fence.

Penalty: \$200.

(2) It shall be a defence to an offence created by this regulation if it is shown that the barrier fence was being used in accordance

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with the Act by an owner or occupier to fence his holding and the stock are confined within the land so fenced.

10. Offence, travelling along fence, etc.

A person shall not enter, remain on or travel along any Crown land adjoining a barrier fence and reserved for the protection and maintenance of the fence, unless he has obtained the prior permission of the Protection Board or other body.

Penalty: \$200.

11. Water

Any water on Crown Lands or reserves, set apart for the purposes of the Act or partly for such purposes, is deemed to be the property of the Protection Board and is capable of being stolen and a person shall not take, use or interfere with such water without the prior written approval of the Protection Board or other body.

Penalty: \$200.

Part III — Animal proof fences

12. Interpretations

Unless the contrary intention appears, in this Part —

certificate means a certificate issued by the Chief Officer pursuant to regulation 14;

permit means a permit issued by the Protection Board to keep a declared animal of Category A6 pursuant to regulation 13 of the *Agriculture and Related Resources Protection (Declared Animals) Regulations 1985*.

13. Animal-proof fences

Where a permit is issued subject to the condition that an animal-proof fence is provided in relation to the animal, that fence and its surrounds shall comply with the specifications of the appropriate fence set out in the Schedule.

14. Certificate

- (1) The Chief Officer may issue a certificate certifying a fence to be an animal-proof fence within the meaning of the Act.
- (2) The certificate shall stipulate the class of declared animal the fence is intended to contain.

15. Maintenance of fencing

- (1) A certificate holder shall maintain an animal-proof fence in good repair, order and condition so as to prevent the escape of the declared animal stipulated in the certificate from the land around which the fence is erected.
- (2) Where, in the opinion of the Chief Officer or an authorised person, an animal-proof fence is not maintained as required by subregulation (1) the Protection Board may improve, alter,

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repair or renew the animal-proof fence and the owners of the land shall pay to the Protection Board, per metre —

- (a) for improvement, alteration or repair —
 - (i) of a deer fence \$5.00
 - (ii) of a feral goat fence \$2.00
- (b) for renewal —
 - (i) of a deer fence \$6.00
 - (ii) of a feral goat fence \$2.50

and if default is made in respect of any sum so payable, payment may be sued for and recovered by the Protection Board in a court of competent jurisdiction.

16. Fencing between land in different ownership

- (1) An animal-proof fence may be erected or created between land in different ownership or occupancy and contributions may be made by agreement between those owners and occupiers in relation to the expenses incurred in that erection or creation but where the adjoining owners are both permit holders the costs shall be shared equally.
- (2) The maintenance and repair of animal-proof fences between land in different ownership or occupancy shall be the responsibility of each owner or occupier and may be provided for by agreements in writing entered into by those owners or occupiers and any such agreement shall run with the land and be binding on succeeding owners and occupiers according to its tenor.
- (3) Disputes arising in relation to barrier fences and other animal-proof fences shall be determined by arbitration under the *Arbitration Act 1895*³.

Schedule

[reg 13]

1. Deer Proof Fence

A fence of a galvanised fabricated type approved by the Protection Board with line wire and vertical dropper wire spacing as approved. The fence shall be strained and attached to posts in accordance with the manufacturer's specifications. The bottom line wire shall be fixed no more than 50 millimetres above the ground.

The overall height of the fence shall be 2 metres from ground level to the top. Ground level is the highest ground within 3 metres inside the fence.

Strainer posts and assemblies shall be —

- (a) of steel, hardwood or treated timber of appropriate diameter; and
- (b) sunk to a depth, and constructed, in accordance with the netting manufacturer's straining specifications.

Line posts shall be sunk into the ground to a suitable depth at intervals up to 20 metres, depending on the terrain.

The bottom line wire shall be held in place by pegs securely anchored in the ground where necessary. Pegs are to be made of steel, hardwood or treated timber.

Where there is danger of the soil being washed or blown away from the fence line, both sides of the fence shall be protected by a continuous line of stones or other appropriate material.

The fence line shall be kept sufficiently clear so that there is no danger of falling timber damaging the fence.

2. Goat Proof Fence

A fence of fabricated ringlock, hinged joint or comparable material (minimum 8 line) with vertical wires spaced no more than 300 millimetres apart. The bottom line shall be no more than 100 millimetres above ground level. A single barbed wire shall be

Schedule

placed midway between the bottom of the fabricated fencing and the ground.

Two barbed wires and sufficient other wires shall be placed equidistant above the fabricated fencing with spacings no greater than 200 millimetres to bring the overall height to 1.5 metres.

Strainer posts shall be of adequate size with suitable stays and placed at intervals to permit straining to the manufacturer's specifications. Line posts of suitable material shall be placed at not more than 6 metre intervals.

The fence line shall be kept sufficiently clear so that there is no danger of falling timber damaging the fence.

[Schedule amended in Gazette 22 May 1987 p. 2201; 18 Oct 1991 p. 5326-7.]

Notes

- ¹ This reprint is a compilation as at 6 June 2003 of the *Agriculture and Related Resources Protection (Fencing) Regulations 1985* 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

Citation	Gazettal	Commencement
<i>Agriculture and Related Resources Protection (Fencing) Regulations 1985</i>	8 Nov 1985 p. 4297-300	8 Nov 1985
<i>Agriculture and Related Resources Protection (Fencing) Amendment Regulations 1987</i>	22 May 1987 p. 2201	22 May 1987
<i>Agriculture and Related Resources Protection (Fencing) Amendment Regulations 1991</i>	18 Oct 1991 p. 5326-7	18 Oct 1991
<i>Agriculture and Related Resources Protection (Fencing) Amendment Regulations 1994</i> ⁴	28 Oct 1994 p. 5461	28 Oct 1994

Reprint 1: The Agriculture and Related Resources Protection (Fencing) Regulations 1985 as at 6 Jun 2003 (includes amendments listed above)

² Repealed by the *Local Government Act 1995*.

³ Repealed by the *Commercial Arbitration Act 1985*.

⁴ The *Agriculture and Related Resources Protection (Fencing) Amendment Regulations 1994* r. 4 reads as follows:

“

4. Savings

Despite regulation 3, regulation 7 of the principal regulations continues to apply in relation to an annual sum payable to the Protection Board or other body that was not paid before the commencement of these regulations.

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