

Western Australia

## **Compulsory Fruit Fly Baiting Regulations**

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## Compulsory Fruit Fly Baiting Regulations

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PLANT DISEASES ACT 1914

## Compulsory Fruit Fly Baiting Regulations

**1. Citation**

These regulations may be cited as the *Compulsory Fruit Fly Baiting Regulations*.

**2. Interpretation**

In these regulations unless the context requires otherwise —  
“**The Act**” means the *Plant Diseases Act 1914* and Acts passed  
in amendment of or substitution for that Act;

expressions used have the same respective meanings as in the  
Act.

**3. Repeal**

The previous regulations governing compulsory fruit fly baiting  
made under the Act and published in the *Government Gazettes*  
of 28th November, 1947, 6th August, 1948, 11th November,  
1949, 19th October, 1951, and 25th September, 1953 are hereby  
revoked.

**4. Provisions relating to taking of poll**

Where under section 12B or section 12C of the Act the Minister  
directs that a poll be taken under the provisions of the Act  
within any district for or against the proposed introduction  
within that district of a compulsory fruit fly baiting scheme, or  
where such a scheme is in operation within any district, to

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determine whether the scheme should be continued, as the case may be, the Minister shall —

- (a) appoint a returning officer for the conduct of the poll;  
and
- (b) fix a day, in accordance with the provisions of the Act, for the taking of the poll.

*[Regulation 4 inserted by Gazette 1 June 1963 p.1717; amended by Gazette 16 April 1982 p.1312.]*

**4A. Returning officer may appoint officers, receive payment for services, etc.**

- (1)
  - (a) The returning officer may appoint such officers as he deems necessary to assist in the conduct of the poll and the scrutiny thereof.
  - (b) The returning officer shall be paid, for the conduct of the poll and the scrutiny thereof an amount equal to 17½% of the fee prescribed from time to time in the regulations made under the *Electoral Act 1907* for a returning officer for a contested election for the Legislative Assembly at a State parliamentary election, and an officer appointed under paragraph (a) of this subregulation, shall, while engaged on the scrutiny and count of votes, be paid for his services at the rate of the fees prescribed from time to time in the regulations made under the *Electoral Act 1907*, for similar duties for Presiding Officers.
  - (c) Officers employed by the returning officer in the preparation and distribution of voting material shall be paid at the rate prescribed by regulations made under the *Electoral Act 1907* (as amended), for presiding officers engaged on the scrutiny and count of votes.
- (2) The returning officer shall publish or cause to be published notification of the intention to conduct a poll and of the day fixed by the Minister for the taking thereof in a newspaper

circulating in the district in which the poll is to be taken, not less than ten days before the day so fixed.

- (3) A notice published in accordance with this regulation shall specify the address of the returning officer to which all applications and other documents under these regulations are required to be sent or delivered.

*[Regulation 4A inserted by Gazette 11 June 1963 p.1717; amended by Gazette 13 August 1968 p.2369; 20 July 1973 p.2734; 16 April 1982 p.1312.]*

**4B. Special roll**

- (1) Within 7 days after his appointment by the Minister the returning officer shall request the Director of Agriculture to furnish him with a special roll of occupiers of orchards situated within the district, prepared in accordance with the Act and these regulations, and on receipt of such request the Director of Agriculture shall forthwith furnish or cause to be furnished to the returning officer the special roll so requested.
- (2) The special roll so furnished shall contain, in the case —
- (a) where a natural person is the sole occupier of an orchard in the district — the name of that person;
  - (b) where there is more than one occupier, the name of one of those occupiers, but not more than one at any time, authorized in accordance with regulation 4D (1) of these regulations; and
  - (c) where the occupier of an orchard is a corporate body, a representative of that corporate body authorized in accordance with regulation 4D (2) of these regulations.

*[Regulation 4B inserted by Gazette 16 April 1982 p.1313.]*

**4C. Orchardist omitted from roll may apply to be enrolled**

Where the Director of Agriculture has failed to include in the special roll the name of an occupier of an orchard in the district,

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who is entitled to be enrolled in accordance with these regulations, the occupier may have his name included on the special roll if he lodges with the Director, not less than 14 days before the taking of the poll, an application in the form of Form No. 1 in the Appendix to these regulations.

*[Regulation 4C inserted by Gazette 16 April 1982 p.1313.]*

**4D. Persons entitled to be enrolled**

- (1) Where there is more than one occupier of an orchard one of those occupiers may be authorized by the other occupier or other occupiers to represent them for the purposes of voting at any poll taken under section 12B or 12C of the Act and on receipt from that representative of an application for enrolment in the form of Form No. 2 in the Appendix to these regulations the Director of Agriculture may cause that representative to be enrolled in the special roll.
- (2) Where the occupier of an orchard is a corporate body the Board of Directors or other management authority of the body may authorize one only of the officers of the body to represent the body for the purposes of voting at any poll taken under section 12B or 12C of the Act and on receipt from that representative of an application for enrolment in the form of Form No. 2 in the Appendix to these regulations the Director of Agriculture may cause that representative to be enrolled in the special roll.
- (3) For the purposes of subregulation (2) of this regulation the following persons are officers of a body corporate —
  - (a) a director or other member of the Board of Directors or other management authority of the body;
  - (b) a trustee of the body;
  - (c) the manager or secretary, or any other officer, of the body.
- (4) Where the Director of Agriculture has not received the name of a representative in accordance with subregulations (1) or (2) of



this regulation, 14 days before the day fixed for the taking of the poll he shall insert the name of a natural person who appears to him to be an occupier or director of the relevant orchard, as the case may be, into the special roll.

- (5) Where the Director of Agriculture determines that the name of an occupier who is entitled to be enrolled is not on the special roll furnished to the returning officer, he may, not less than 7 days before the day fixed for the taking of the poll, cause the returning officer to be furnished with the particulars of that occupier for inclusion in the special roll.
- (6) A person shall be entitled to one enrolment only on the special roll at any one time, whether as a voter in his own right or as the representative of joint occupiers or a corporate body, or otherwise.
- (7) Revocation of authority given under subregulations (1) or (2) of this regulation may be made by notice in writing signed by the other occupiers or a director and one other officer as the case may be, sent or delivered to the Director of Agriculture and on receipt of such notice the Director shall cause to have removed from the special roll the name of the representative person whose authority has been so revoked; but any such revocation shall not invalidate any vote given by that representative person enrolled and voting by virtue of such authority at a poll taken prior to that revocation.
- (8) Every authority given under subregulations (1) and (2) of this regulation shall remain effective for all subsequent polls until written notice of revocation is sent or delivered to the returning officer.

*[Regulation 4D inserted by Gazette 16 April 1982 p.1313.]*

**4E. Ballot papers**

- (1) As soon as practicable after the fixing of the day for the taking of the poll the returning officer shall cause to be printed ballot papers in accordance with the Form No. 3 in the Appendix to

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these regulations setting out the proposal on which the poll is to be taken, and counterfoils in accordance with the Form No. 4 in that Appendix, and within fourteen days after the publication of the notice under regulation 4A of these regulations shall send by post or otherwise to each person whose name appears the special roll prepared in accordance with regulation 4B of these regulations —

- (a) one ballot paper initialed by the returning officer or a person authorised by him in that behalf;
  - (b) one counterfoil;
  - (c) one ballot paper envelope; and
  - (d) one envelope addressed to the returning officer.
- (2) Each ballot paper, counterfoil, ballot paper envelope, and addressed envelope shall be enclosed by the returning officer in a covering envelope which shall be fastened, addressed and forwarded to the person for whom it is intended.
- (3) There may be enclosed also in the covering envelope referred to in subregulation (2) of this regulation a pamphlet containing a brief explanation by the Minister of the reason for the conduct of the poll.
- (4) A person who has been enrolled on the special roll under the provisions of regulation 4C of these regulations shall be sent a ballot paper, counterfoil, ballot paper envelope, and envelope addressed to the returning officer, as soon as practicable after being enrolled.

**4F. Replacement ballot paper**

If a person entitled to vote at the poll sends or delivers to the returning officer a statement in writing signed by him setting out his full name and his address, and stating that he has not received his ballot paper, or that the ballot paper received by him is lost or has been destroyed, and that he has not already voted in respect of the poll, the returning officer may issue a new ballot paper to that person.

**4G. Voting**

- (1) A person to whom a ballot paper and counterfoil is addressed, if desirous of voting, shall record his vote on the ballot paper in the manner following —
  - (a) if he approves of the proposal, he shall mark the ballot paper by placing a cross in the square opposite the word, “Yes”; or
  - (b) if he does not approve of the proposal, he shall mark the ballot paper by placing a cross in the square opposite the word, “No”.
- (2) A voter having marked his ballot paper in accordance with subregulation (1) of this regulation shall then —
  - (a) place the ballot paper alone in the envelope marked “ballot paper” and fasten such envelope;
  - (b) complete and sign the counterfoil in the presence of a witness who shall also sign the counterfoil; and
  - (c) return the ballot paper envelope with the ballot paper contained therein and the completed counterfoil to the returning officer by post or otherwise in the envelope addressed to the returning officer so as to be received by him not later than twelve o’clock noon on the day fixed for the taking of the poll.

**4H. Opening of ballot papers**

- (1) The returning officer shall place and keep in a locked and sealed ballot box, until the scrutiny, all envelopes purporting to contain ballot papers received by him up to the close of the poll.
- (2) An envelope containing a ballot paper received after the close of the poll shall not be admitted to the scrutiny.
- (3) As soon as practicable after the close of the poll the returning officer, in the presence of any scrutineer permitted by him, shall —

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- (a) produce and open the locked and sealed ballot box wherein the envelopes containing ballot papers and counterfoils have been placed and kept, and open each outer envelope;
  - (b) compare each enclosed counterfoil with the special roll, and if satisfied that the person named in the counterfoil is entitled to vote and that the counterfoil has been completed, signed and witnessed as required by these regulations, strike out the name of that person on the special roll; and
  - (c) without opening the envelope marked “ballot paper”, deposit it in a locked and sealed ballot box and set aside the counterfoil for safe keeping.
- (4) Where the right of a person to vote is not established or the counterfoil is not signed by the voter and by the witness, the returning officer shall replace the counterfoil and the envelope marked “ballot paper” in the outer envelope that he has opened, endorse on that envelope the word, “rejected”, and set it aside for safe keeping, together with any other outer envelopes that he has rejected.

**4I. Informal votes**

A ballot paper shall be informal —

- (a) if it does not bear the initials or signature of the returning officer or a person authorized in that behalf by the returning officer;
- (b) if no mark is indicated on it,

but otherwise shall be given effect according to the voter’s intention so far as his intention is clear.

*[Regulation 4I inserted by Gazette 16 April 1982 p.1314.]*

**4J. Counting of votes**

- (1) The returning officer may, if he thinks fit, commence the count of ballot papers without waiting until all outer envelopes have been opened pursuant to subregulation (3) of regulation 4H of these regulations, and he may at any time during the course of the scrutiny open the locked and sealed ballot box referred to in paragraph (c) of that subregulation and proceed with the count of the votes.
- (2) The returning officer shall count —
  - (a) the number of votes recorded in favour of the proposal;
  - (b) the number of votes recorded not in favour of the proposal; and
  - (c) the number of informal ballot papers.
- (3) The returning officer may adjourn the count of votes from time to time as he deems necessary until it has been completed, but before every such adjournment he shall place or cause to be placed in ballot boxes all unopened envelopes purporting to contain ballot papers and, in the presence of any scrutineers who may be present, shall lock and seal those ballot boxes.
- (4) Any scrutineer, if he desires to do so, may also place his special seal upon the ballot boxes locked and sealed by the returning officer pursuant to subregulation (3) of this regulation.

**4K. Retention of ballot papers etc.**

- (1) On completion of the scrutiny and count of votes the returning officer shall enclose in one packet all used ballot papers, in another packet all counterfoils, and in a third packet all rejected votes, and shall seal up the several packets, endorse on each packet a description and the number of the contents respectively, and sign the endorsements.
- (2) The returning officer shall preserve and hold in custody the sealed packets referred to in this regulation together with all other documents used at or in connection with the poll until the

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expiration of six months after the date of certification to the Minister of the result of the poll, when those sealed packets and documents shall then be destroyed.

**4L. Certificate to Minister**

- (1) The returning officer shall forthwith after completion of the scrutiny and count of votes prepare and forward to the Minister a certificate showing the result of the poll and setting forth —
  - (a) the total number of votes recorded in favour of the proposal;
  - (b) the total number of votes recorded not in favour of the proposal; and
  - (c) the total number of informal ballot papers.

*[(2) repealed]*

*[Regulation 4L amended by Gazette 16 April 1982 p.1314.]*

**4M. Disputes**

- (1) Any dispute arising out of the conduct of a poll shall be referred by the returning officer to the Minister, and any dispute arising in the preparation of a special roll of occupiers shall be referred by the Director of Agriculture to the Minister in accordance with section 12CB.
- (2) The provisions of the *Electoral Act 1907* (as amended) and the regulations made thereunder apply so far as they can be made applicable to all matters not provided for in these regulations.

*[(3) deleted]*

*[Regulation 4M amended by Gazette 16 April 1982 p.1314.]*

**4N. Offences relating to polls**

A person who —

- (a) not being entitled to be enrolled as a voter for the purpose of a poll conducted under the Act and these regulations, makes a claim to be enrolled; or
- (b) makes any statement that is to his knowledge false in any application for enrolment, or in any statement accompanying a ballot paper verifying the right of the voter to vote; or
- (c) votes more than once at a poll; or
- (d) votes at a poll unless he is entitled so to vote,

commits an offence against these regulations.

Penalty: Twenty pounds.

**5. Fees for Committee members**

The fees to be paid to each of the members of a Committee appointed under section 12C of the Act for each meeting attended shall be \$10 to the Chairman and \$5 to each other member, but if any member of a Committee is a Government employee then that member is not entitled to a fee for any meeting attended within the office hours for the time being prescribed under regulation 6 of the Public Service Regulations.

*[Regulation 5 inserted by Gazette 19 February 1971 p.522.]*

**5A. Casual vacancies**

- (1) Where a casual vacancy occurs in a Committee, appointed under the provisions of section 12C of the Act, the vacancy shall be filled —
  - (a) in the case of a member, by nomination from the association or municipality empowered to make nominations under the Act; and
  - (b) in the case of the Chairman, by nomination of an inspector by the Minister.
- (2) Appointment of the nominees shall be made by the Minister by notice in the *Gazette*.

*[Regulation 5A inserted by Gazette 9 December 1964 p.3932.]*

**6. Obstructing etc.**

Every person commits an offence against these regulations who directly or indirectly obstructs, hinders, or interrupts, or threatens, or assaults or uses improper or abusive language to any person authorised in writing by the Committee whilst in the performance of his duty under section 12C(i)(d)(iv). Any complaint and proceedings under this regulation may be made and maintained on behalf of the Committee by and in the name of the Chairman.

*[Regulation 6 amended by Gazette 20 July 1973 p.2734.]*

**7. Authorised person may use vehicle or plant**

A person duly authorised in writing by the Committee under the provisions of section 12C (i) (d) (iv) of the Act to enter upon an orchard to bait fruit trees or fruit vines in the orchard may enter thereon with any vehicle, unit, or other mechanical plant not exceeding in weight two tonnes each.

*[Regulation 7 amended by Gazette 20 July 1973 p.2734;  
6 May 1977 p.1347.]*



**Appendix**

Form No. 1.

[Reg. 4C]

Western Australia

*Plant Diseases Act 1914* (as amended)

(Sections 12B and 12C.)

**APPLICATION FOR ENROLMENT ON SPECIAL ROLL**

..... District.

To the Returning Officer,

Poll on Compulsory Fruit Fly Foliage Baiting Scheme,

.....

I, ..... of .....

in the State of Western Australia, declare that I am an occupier of an orchard, within the ..... District, wherein a poll is to be conducted on the proposal to introduce a compulsory fruit fly foliage baiting scheme (or, to determine whether the compulsory fruit fly foliage baiting scheme operating therein should be continued), and I hereby make application for my name to be enrolled on the special roll prepared in accordance with regulation 4B of the *Compulsory Fruit Fly Baiting Regulations*.

I make this statement with full knowledge of the fact that if it is wilfully false in any particular I am guilty of an offence against the regulations.

Dated the ..... day of ....., 19.....

.....

Applicant's Signature.

**Compulsory Fruit Fly Baiting Regulations**

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Form No. 2

[Reg. 4D]

WESTERN AUSTRALIA  
*PLANT DISEASES ACT 1914 (AS AMENDED)*  
(Sections 12B and 12C.)

APPLICATION FOR ENROLMENT OF REPRESENTATIVE on special roll  
for poll on Compulsory Fruit Fly Foliage Baiting Scheme.

To the Director of Agriculture:

- (1) I, (a) ..... of (b) .....  
in the State of Western Australia, hereby apply to have my name enrolled  
on the special roll prepared in accordance with regulation 4B of the  
*Compulsory Fruit Fly Baiting Regulations* on the ground that I am the  
representative of (c) .....  
the occupiers of an orchard within the ..... District.  
I/We consent to this application (d) .....  
.....
- (2) I am not enrolled upon the special roll in any other capacity.
- (3) I supply the following particulars concerning myself —  
Surname (block letters)  
Given names (in full)  
Residence (full address)  
Occupation.

I, the abovenamed applicant, hereby state that the particulars furnished above in  
this application are true and correct.

Dated the ..... day of, ..... 19 ..

.....  
Applicant.

- (a) full name of applicant;  
(b) address;  
(c) name of the joint occupiers, company or other body;  
(d) (1) in the case of joint occupiers, the signatures of the other  
occupiers;  
(2) in the case of a corporate body, the signature of a director  
and one other officer of the company.

Form No. 3.

[Reg. 4E]

Western Australia  
Plant Diseases Act 1914 (as amended)  
(Sections 12B and 12C.)

..... District.

**POLL ON PROPOSAL RE COMPULSORY FRUIT  
FLY FOLIAGE BAITING SCHEME  
BALLOT PAPER**

Date of close of Poll ..... at 12 o'clock noon.

Authorised Officer's  
Initials.

Proposal —

(Here insert the proposal on which  
the poll is to be conducted.)

YES   
NO

Directions for Voting.

1. The voter shall mark his ballot paper as follows: —
  - (a) If he approves of the proposal — by placing a cross in the square opposite the word, “Yes”.
  - (b) If he does not approve of the proposal — by placing a cross in the square opposite the word, “No”.
2. The voter shall then —
  - (a) enclose the ballot paper alone in the envelope marked, “Ballot paper” and fasten the envelope;
  - (b) complete and sign the counterfoil (Form No. 4);
  - (c) return the ballot paper envelope with the ballot paper contained therein and the completed counterfoil to the Returning Officer by post, or otherwise, in the envelope addressed to the Returning Officer, so as to be received by him not later than twelve o'clock noon on the day fixed for the taking of the poll.

**Compulsory Fruit Fly Baiting Regulations**

**Sch.**

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Form No. 4

[Reg. 4E]

Western Australia  
*Plant Diseases Act 1914* (as amended)  
(Sections 12B and 12C.)

..... District

**POLL ON PROPOSAL RE COMPULSORY FRUIT FLY  
FOLIAGE BAITING SCHEME  
COUNTERFOIL**

Date of close of poll ..... at 12 o'clock noon.

Name in full of voter .....

Address of voter .....

Usual signature of voter .....

Witness to signature .....

Address of Witness .....

*[Appendix inserted by Gazette 11 June 1963 pp.1722-4; amended by  
Gazette 16 April 1982 p.1314.]*

**Notes**

- <sup>1.</sup> This is a compilation of the *Compulsory Fruit Fly Baiting Regulations* and includes the amendments referred to in the following Table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>	
<i>Compulsory Fruit Fly Baiting Regulations</i>	1 Apr 1955 pp.607-9		
	11 Jun 1963 pp.1717-24		
	9 Dec 1964 p.3932		
	13 Aug 1968 p.2369		
	19 Feb 1971 p.522		
	20 Jul 1973 p.2734		
	6 May 1977 p.1347		
	16 Apr 1982 pp.1312-4		