

Western Australia

## **Agriculture Protection Board Act 1950**

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## Agriculture Protection Board Act 1950

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## Agriculture Protection Board Act 1950

**An Act to provide for the constitution of an Agriculture Protection Board and to regulate its powers, functions and duties, and for incidental and other purposes.**

*[Long title amended by No. 25 of 1976 s. 3.]*

**1. Short title**

This Act may be cited as the *Agriculture Protection Board Act 1950*<sup>1</sup>.

**2. Commencement**

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

**3. Interpretation**

In this Act, unless the context requires otherwise —

***Agriculture Protection Act*** means the *Agriculture and Related Resources Protection Act 1976* and the regulations thereunder;

***Protection Board*** means The Agriculture Protection Board of Western Australia constituted under the provisions of this Act;

***Protection Account*** means The Agriculture Protection Board Account referred to in section 9;

***to sell*** means to sell by wholesale or retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver for sale, cause or suffer or allow to be sold, and the disposal or offer for disposal of goods under hire purchase agreement; and ***sale*** and ***sold*** and other derivatives have a corresponding meaning;

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expressions used have the same meanings as in the Agriculture Protection Act.

*[Section 3 amended by No. 25 of 1976 s. 4; No. 32 of 1994 s. 19; No. 74 of 2003 s. 27; No. 77 of 2006 s. 17.]*

**4. Construction**

- (1) In this section, any reference to the Agriculture Protection Act includes a reference to the provisions of that Act and any regulation, proclamation, declaration and notice made or given and promulgated under the provisions of that Act.
- (2) This Act shall be read in conjunction with the Agriculture Protection Act, as if the provisions of this Act were incorporated with and formed part of that Act, but where the provisions of this Act are in conflict with the provisions of that Act, the provisions of this Act shall prevail to the extent to which they are so in conflict or inconsistent.
- (3) Subject to the provisions of subsection (2), the provisions of this Act are in addition to and not in derogation of the provisions of the Agriculture Protection Act.

*[Section 4 inserted by No. 25 of 1976 s. 5.]*

**5. The Agriculture Protection Board of Western Australia**

- (1) For the purposes of carrying this Act and the Agriculture Protection Act into effect, there shall be a board constituted as provided in this section which shall be called The Agriculture Protection Board of Western Australia.
- (2) The Protection Board shall consist of —
  - (a) the person for the time being holding the office of Director General of Agriculture, within the meaning of section 7(1) of the *Agriculture Act 1988*;
  - (b) 6 persons appointed by the Minister with, in the opinion of the Minister, wide experience in rural industry or the protection of rural industry resources or other

- qualifications relevant to the powers and duties of the Protection Board; and
- (c) 5 persons appointed by the Minister from the members of zone control authorities nominated under subsection (5).
- (3) The Minister shall appoint one of the members appointed under subsection (2)(b) to be the chairperson of the Protection Board for the period specified in the instrument of appointment.
- (4) An appointed member of the Protection Board holds office for the period, not exceeding 3 years, specified in the instrument of appointment of the member, and may from time to time be reappointed.
- (5) For the purposes of subsection (2)(c), each zone control authority shall, whenever required to do so by the Minister and within the period specified by the Minister, nominate a member of the authority for appointment to the Protection Board.
- (6) If the number of nominations made within the period specified by the Minister is less than is required to make the necessary appointments under subsection (2)(c), the Minister may appoint any persons that the Minister thinks fit to appoint to complete those appointments.
- (6a) A person appointed under subsection (6) holds office as if that person had been nominated by a zone control authority under subsection (5).
- (6b) A person who holds office as a member of a zone control authority ceases to hold that office on being appointed to the Protection Board.
- (7) The Protection Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued and shall have power to purchase, take, hold, sell, lease, exchange, mortgage and dispose of real and personal property.

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- (8) Meetings of the Protection Board shall be held at such times as may be prescribed and, until prescribed, when convened by the chairperson.
- (9) The Protection Board shall conduct its proceedings in such manner as may be prescribed and, until prescribed, as the Protection Board shall determine, but in any case —
  - (a) 5 members shall constitute a quorum for the conduct of business;
  - (b) all matters shall be determined by a majority of the votes of the members present, and where there is an equality of votes the question is to be determined in the negative;
  - (c) each member, including the chairperson, shall be entitled to one vote only on the determination of any matter; and
  - (d) in the absence of the chairperson, at any meeting, the members present shall appoint one of their number then present to be chairperson of that meeting.
- (10) The Protection Board may act and exercise all of its powers, notwithstanding any vacancy in membership, and no act or proceeding of the Protection Board shall be invalid or illegal in consequence only of any vacancy in membership existing at the time of any act or proceeding.
- (11)(a) The Minister may, in respect of any member of the Protection Board, appoint a person to be the deputy of that member and to represent the same interests as that member.
  - (b) Any person appointed to be the deputy of a member shall, in the event of the absence of the member, have all the powers of that member during his absence.
  - (c) No appointment of and no act done in that capacity by a deputy shall be questioned on the ground that the occasion for his appointment had not arisen, or had ceased.

- (12) Appointment as a member of the Protection Board does not render Part 3 of the *Public Sector Management Act 1994*, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person or prejudice the application to him of those Acts if they applied to him at the time of his appointment.
- (13) Every member of the Protection Board shall be entitled to such allowances and remuneration for his services as may be prescribed.
- (14) The Protection Board shall cause to be kept minutes of all its proceedings in such manner and form as the Minister may direct or approve.

*[Section 5 inserted by No. 70 of 1960 s. 3; amended by No. 25 of 1976 s. 6; No. 95 of 1986 s. 4; No. 32 of 1994 s. 19; No. 29 of 1995 s. 4 and 5.]*

**5A. Validation**

Any act or thing done, or purporting to have been done, under this Act, by the Protection Board, prior to the commencement of the *Agriculture Protection Board Act Amendment Act 1960*<sup>1</sup> is hereby ratified as lawful, confirmed and validated.

*[Section 5A inserted by No. 70 of 1960 s. 4.]*

**6. Administration**

Subject to the Minister, this Act shall be administered by the Protection Board.

**7. Expenses of administration**

The expenses of the administration of this Act shall be charged to the Protection Account.

*[Section 7 amended by No. 49 of 1996 s. 64; No. 77 of 2006 s. 17.]*

**8. Powers and duties of the Protection Board**

- (1) Subject to the Minister and to the provisions of this Act and the Agriculture Protection Act, the powers and duties of the Protection Board shall include the following —
- (a) making investigations and enquiries into and formulating schemes for efficiently —
    - (i) controlling, and prohibiting and regulating the introduction of, declared plants;
    - (ii) controlling, and prohibiting and regulating the introduction and keeping of, declared animals;
  - (b) ensuring that the provisions of this Act and the Agriculture Protection Act are efficiently carried into effect throughout the State and co-ordinating the implementation, in the various zones and regions, of policies, schemes and programmes formulated under this Act or that Act;
  - (c) authorising and directing the expenditure of moneys standing to the credit of the Protection Account and the Control Account for the purposes of this Act and the Agriculture Protection Act generally and, in particular, for implementing policies, schemes and programmes formulated under this Act or that Act;
  - (d) conducting, or arranging for the conduct of, experiments on and in relation to declared plants and declared animals;
  - (e) maintaining, improving, altering, repairing and renewing any barrier fence and any other structure or source of water supply upon the land upon which the barrier fence is erected and any machinery, implement, livestock, vehicles or other plant, used in connection with the maintenance, improvement, alteration or renewal of barrier fences;
  - (f) controlling, regulating and prohibiting the sale, acquisition or use of any apparatus, appliance, thing or

substance offered or represented or which may be offered or represented as suitable for use in the control of declared plants or declared animals;

- (g) purchasing, taking on lease, or otherwise acquiring, upon such terms and conditions as the Minister may approve, any real or personal property whatsoever as the Protection Board may think requisite for carrying into effect the objects and purposes of this Act or the Agriculture Protection Act, and from time to time selling, exchanging, letting, or otherwise disposing of any real or personal property acquired by or vested in the Protection Board for the purposes of this Act or the Agriculture Protection Act;
- (h) purchasing equipment and purchasing or manufacturing materials for the control of declared plants and declared animals for resale or sale to any local government or other person or body who or which is responsible for such control pursuant to the provisions of any Act at cost price plus such amounts as are determined by the Protection Board being —
  - (i) an amount representing handling, forwarding, administration and other costs incidental to the purchase of such equipment or the purchase or manufacture of such materials; and
  - (ii) an amount to be paid to a reserve account kept pursuant to section 16;
- (i) borrowing in such manner and subject to such conditions as to borrowing and expenditure as the Treasurer specifies, such sum or sums as shall not at any one time exceed \$500 000 for meeting expenses incurred or likely to be incurred in the control of, or the prohibition or regulation of the introduction of, declared plants or declared animals;

- (j) making advances to local governments, or other bodies or persons, for the control of declared plants and declared animals;
  - (k) paying bonuses at such rates, for such periods, for destruction of such declared animals in such zones, regions or other areas as may, for the purposes of this paragraph, subject to subsection (3), from time to time be fixed by the Protection Board by declaration;
  - (l) employing such officers and other employees as are necessary for the purposes of carrying out the powers and duties conferred and imposed upon the Protection Board by this or any other Act;
  - (m) with the approval of the Minister for Public Sector Management<sup>2</sup>, determining the terms and conditions of appointment and employment of the officers and employees employed pursuant to paragraph (l);
  - (n) with the consent of the Minister of the Crown charged with the administration of any Government department, making use, for the purpose of carrying out the provisions of this Act or any other Act, of the services of any person employed in that department; and
  - (o) generally doing all such acts, matters and things as the Protection Board shall consider necessary or conducive to the control of, or the prohibition or regulation of the introduction of, declared plants or the control of, or the prohibition or regulation of the introduction or keeping of, declared animals, and as the Protection Board is authorised to do under the provisions of this or any other Act.
- (2) The Protection Board may sell and supply poison pursuant to subsection (1)(h) notwithstanding anything to the contrary contained in the *Poisons Act 1964*.

- (3) The rates of bonuses fixed under subsection (1)(k) in respect of a class of declared animals in respect of any one zone, region or area —
- (a) shall be uniform throughout that zone, region or area;
  - (b) may differ from those fixed in respect of another zone, region or area;
  - (c) shall not exceed such amount as is prescribed in respect of that class.

*[Section 8 inserted by No. 25 of 1976 s. 7; amended by No. 32 of 1994 s. 19; No. 14 of 1996 s. 4; No. 49 of 1996 s. 64; No. 9 of 1998 s. 4; No. 77 of 2006 s. 17.]*

**8A. Effect of employment on rights under certain Acts**

Employment or appointment of a person, or use being made of a person's services by the Protection Board, whether before, on or after the day of the coming into operation of the *Agriculture Protection Board Act Amendment Act 1956*<sup>1</sup>, does not of itself render the provisions of Part 3 of the *Public Sector Management Act 1994*, the *Public Service Appeal Board Act 1920*<sup>3</sup> or the *Superannuation and Family Benefits Act 1938*<sup>4</sup> applicable to him if not applicable to him at the time of his being so employed or appointed, or use being so made of his services, nor affect the application to him of those provisions if applicable to him at the time of his being so employed or appointed, or use being so made of his services.

*[Section 8A inserted by No. 8 of 1956 s. 3; amended by No. 32 of 1994 s. 19; No. 1 of 1995 s. 35.]*

**8B. Status of officers and other employees of Board who are members of Senior Executive Service**

Notwithstanding anything in sections 8(1)(l) and 8A, to the extent that there is in the case of a person who is employed under section 8(1)(l) to be an officer or other employee of the Board and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*<sup>5</sup>

an inconsistency between this Act and that Act that Act shall prevail.

*[Section 8B inserted by No.113 of 1987 s. 32.]*

**9. Accounts**

- (1) The funds necessary for the effectual exercise by the Protection Board of the powers conferred and duties imposed upon it by this Act and the Agriculture Protection Act shall be —
  - (a) the sums and contributions referred to in section 11;
  - (b) such moneys as are, from time to time, appropriated by Parliament for that purpose;
  - (c) such moneys as the Protection Board may borrow pursuant to the provisions of this Act;
  - (d) the proceeds of any sale, lease, mortgage, exchange or other disposal of land or personal property which the Protection Board is authorised to effect and which may properly be so used;
  - (e) the proceeds of investment of any part of the fund which is not required for an immediate use; and
  - (f) such moneys as are received on and after 1 March 1951 for the sale, rental, hire, lease or otherwise using or disposing of all stocks, including fences, land reserved for the purposes of such fences, sources of water supplies upon such lands, structures, furniture, fittings, machinery, vehicles, livestock, crops, grain, hay, chaff, implements, tools, equipment, materials, and all other goods and plant provided by the Government, whether before, on or after that day, for the purpose of, or in connection with the control of, or the prohibition or regulation of the introduction or keeping of, plants or animals to which the Agriculture Protection Act applies or to which any Act repealed by that Act applied.
- (2) An agency special purpose account called The Agriculture Protection Board Account is established under section 16 of the

*Financial Management Act 2006*, and all moneys referred to in subsection (1) are to be credited to the Protection Account and applied to the purposes of this Act and the Agriculture Protection Act.

- (3) The Protection Account shall be operated upon in such manner as may be prescribed.

*[Section 9 amended by No. 8 of 1956 s. 4; No. 25 of 1976 s. 8; No. 49 of 1996 s. 64; No. 77 of 2006 s. 17.]*

#### 10. Temporary investment

All moneys standing to the credit of the Protection Account may, until required by the Protection Board in connection with the exercise of its powers or the discharge of its duties under this Act or the Agriculture Protection Act, be temporarily invested as the Treasurer may direct in any securities in which moneys in the Public Bank Account may lawfully be invested, and all interests derived from such investment shall be credited to the Protection Account.

*[Section 10 amended by No. 25 of 1976 s. 9; No. 98 of 1985 s. 3; No. 49 of 1996 s. 64; No. 77 of 2006 s. 17.]*

#### 11. Contributions to Protection Account

- (1) In this section —

**Authority** means the Public Transport Authority of Western Australia established by the *Public Transport Authority Act 2003* section 5;

**expenditure** means the expenditure of the Protection Board in carrying out the duties and exercising the powers conferred upon it by this and any other Act.

- (2) Without other authorisation than the provisions of this Act, the Authority shall in each year make to the Protection Account, for the purpose of assisting in meeting expenditure in respect of the control of, and the prohibition and regulation of the introduction

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of, declared plants and declared animals, and the general expenses of the Protection Board, a contribution of \$6 000.

*[(3) deleted]*

- (4) The provisions of this section requiring the Authority to make contributions to the Protection Account shall not be construed so as to affect any responsibility of the Authority to comply with the provisions of the Agriculture Protection Act.
- (5) Nothing contained in this section shall limit or affect the expenditure of any other moneys or funds available for the purposes of this Act or the Agriculture Protection Act.

*[Section 11 amended by No. 84 of 1953 s. 4; No. 17 of 1964 s. 3; No. 113 of 1965 s. 8(1); No. 97 of 1970 s. 3; No. 25 of 1976 s. 10; No. 31 of 2003 s. 140; No. 77 of 2006 s. 17.]*

*[12. Deleted by No. 25 of 1976 s. 11.]*

*[13. Deleted by No. 25 of 1976 s. 12.]*

**14. Contracts**

In relation to contracts to which the Protection Board is a party, the following provisions shall apply —

- (a) every contract made by the Protection Board may, if the Protection Board thinks fit, specify the person to whose satisfaction the contract is to be completed and the mode of determining any dispute which arises concerning or in consequence of the contract;
- (b) the powers granted to the Protection Board under this or any other Act to make contracts may be exercised as follows —
- (i) any contract which, if made between private persons would be required by law to be in writing under seal, may be made on behalf of the Protection Board in writing under the common

- seal of the Protection Board, and may in the same manner be varied or discharged;
- (ii) any contract which, if made between private persons would be required by law to be in writing signed by the parties to be charged therewith, may be made on behalf of the Protection Board in writing signed by any person acting under its authority express or implied and may, in the same manner, be varied or discharged;
  - (iii) any contract which, if made between private persons would be valid in law, although made by parol only and not reduced into writing, may be made by parol on behalf of the Protection Board by any person acting under its authority express or implied and may in the same manner be varied or discharged;
- (c) all contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the Protection Board and all other parties thereto, their successors, heirs, executors or administrators, as the case may be, and in the case of default in the execution of any such contract either by the Protection Board or by any other party thereto, such actions or suits or other proceedings may, subject to the provisions of this Act, be instituted either by or against the Protection Board in its corporate name or by or against the other parties making the default, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons;
- (d) no contract made by the Protection Board the consideration of which exceeds \$100 000 shall have any force or effect unless sanctioned by the Governor;
- (e) the Protection Board may compound and agree with any person or firm who has entered into any contract with it or against whom any action or suit is brought for any

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penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract, bond or security for such sum of money or other recompense as the Protection Board thinks proper.

*[Section 14 amended by No. 113 of 1965 s. 8(1); No. 95 of 1986 s. 5.]*

**15. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Protection Board and its operations.

*[Section 15 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 s. 17.]*

**16. Reserve accounts**

The Protection Board may, in respect of the exercise of its powers and duties, establish and record in its books, such reserve accounts for renewals or depreciation as it thinks fit, and may in every year, credit to each such reserve account such sums as it thinks fit.

*[17, 18. Deleted by No. 98 of 1985 s. 3.]*

**19. Accounts to be balanced**

The accounts of the Protection Board in relation to the business carried on by it under this Act shall be balanced every year on 30 June.

*[20, 21. Deleted by No. 98 of 1985 s. 3.]*

**22. Savings as to Government departments and co-operation with them**

- (1) Save as otherwise expressly provided in this Act or the Agriculture Protection Act, nothing in this Act or the Agriculture Protection Act shall affect any rights, powers, authorities or duties of any Government department.
- (2) Where the exercise of any rights, powers or authorities or the discharge of any duties by the Protection Board may affect the exercise of any rights, powers or authorities or the discharge of any duties by any Government department, the Protection Board shall, so far as practicable, confer and co-operate with that department.
- (3) Any question, difference or dispute arising or about to arise between the Protection Board and any Government department with respect to the exercise of any rights, powers or authorities, or the discharge of any duties by either or both of them, may be finally and conclusively determined by the Governor.

*[Section 22 amended by No. 25 of 1976 s. 14.]*

**23. Protection of members of Protection Board, officers, and others**

No matter or thing done by any member of the Protection Board or by any officer or other person appointed or employed under the provisions of this Act, if done *bona fide* in the exercise of his powers or in the performance of his duties under this or any other Act, shall subject him to any personal liability in respect thereof.

**24. Plaintiff in action for personal injuries to submit to medical examination**

*[(1), (2) deleted]*

- (3) No action shall lie or be brought or continued against the Protection Board in respect of any injury to the person, unless the person injured submits himself to examination by a medical

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practitioner or medical practitioners appointed by the Protection Board at all reasonable times as the Protection Board may require.

*[Section 24 amended by No. 73 of 1954 s. 8.]*

**25. Provisions of Workers' Compensation Act to prevail**

Where there is conflict or inconsistency between the provisions of this Act and those of the *Workers' Compensation and Injury Management Act 1981*, to the extent of the conflict or inconsistency, the latter shall prevail.

*[Section 25 amended by No. 42 of 2004 s. 175.]*

**26. Judicial notice of common seal**

All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Protection Board affixed to any deed and shall presume that such seal was properly affixed thereto.

**27. Service of notices and legal proceedings**

Any notice, summons, writ or other proceeding required to be served upon the Protection Board may be served by being given personally to the chairperson or the officer of the Protection Board authorised to receive it.

*[Section 27 amended by No. 29 of 1995 s. 5.]*

**28. Documents how authenticated**

Every notice, order, summons or other document requiring authentication by the Protection Board may be sufficiently authenticated without the seal of the Protection Board if signed by the chairperson or officer of the Protection Board authorised to sign it.

*[Section 28 amended by No. 29 of 1995 s. 5.]*

**29. Power to direct prosecutions**

The Protection Board may, without prejudice to the provisions of section 98 of the Agriculture Protection Act, order either generally or in any particular case that proceedings be taken for the recovery of any penalties incurred under, or for the punishment of any persons offending against, this Act or the Agriculture Protection Act.

*[Section 29 inserted by No. 25 of 1976 s. 16.]*

**30. Power of officer to represent Protection Board**

In all proceedings before a court of summary jurisdiction, any officer of the Protection Board appointed by the chairperson in writing under his hand for that purpose may represent the Protection Board in all respects as though such officer was the party concerned.

*[Section 30 amended by No. 29 of 1995 s. 5; No. 59 of 2004 s. 141.]*

**31. Proof of certain matters**

- (1) In any prosecution or legal proceedings under the provisions of this Act or the Agriculture Protection Act instituted by or under the direction of the Protection Board, no proof shall be required, until evidence is given to the contrary, of —
  - (a) the constitution of the Protection Board;
  - (b) any order of the Protection Board to prosecute;
  - (c) the particular or general appointment of any officer of the Protection Board to take proceedings against any person;
  - (d) the powers of the officer to prosecute;
  - (e) the appointment of the chairperson or of any member or officer of the Protection Board; or
  - (f) the presence of a quorum at any meeting at which any order is made or any act is done by the Protection Board.

- (2) The production of —
- (a) a copy of the *Government Gazette* containing any regulation, declaration, proclamation or notice purporting to have been made or given under any of the provisions of this Act or the Agriculture Protection Act; or
  - (b) a copy purporting to be a true copy of any such regulation, declaration, proclamation or notice, certified as such under the hand of the chairperson or the Chief Officer or an authorised officer of the Protection Board,

shall be evidence until the contrary is proved of the due making, existence, confirmation, approval and giving of such regulation, declaration, proclamation or notice, and of all preliminary steps necessary to give full force and effect to the same.

- (3) The provisions of this section are in addition to, and not in derogation of, those of the *Evidence Act 1906*.

*[Section 31 amended by No. 25 of 1976 s. 17; No. 29 of 1995 s. 5.]*

**32. Evidence of documents issued by the Protection Board**

All documents whatever purporting to be issued or written by or under the direction of the Protection Board and purporting to be signed by the chairperson or an authorised officer, shall be received as evidence in all courts and before all persons acting judicially within the State and shall without proof be deemed to have been issued or written by or under the direction of the Protection Board until the contrary is shown.

*[Section 32 amended by No. 29 of 1995 s. 5.]*

**33. Regulations**

- (1) The Governor may make regulations prescribing forms, fees and other matters and things which, by this Act, are contemplated, required, or permitted to be prescribed, or which appear to him necessary or convenient to be prescribed for the purpose of

effectually carrying out the provisions of this Act, or for better effecting the objects and purposes of this Act.

- (2) The regulations may impose a penalty not exceeding \$2 000 for a breach of any regulation.

*[Section 33 amended by No. 113 of 1965 s. 8(1); No. 20 of 1989 s. 3.]*

*[Schedules 1 and 2 deleted by No. 29 of 1995 s. 6.]*

## Notes

- <sup>1</sup> This is a compilation of the *Agriculture Protection Board Act 1950* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

| Short title   | Number and year  | Assent      | Commencement   |
|---|--|-------------|--|
| <i>Agriculture Protection Board Act 1950</i>  | 76 of 1950<br>(14 & 15<br>Geo. VI<br>No. 76)                                     | 5 Jan 1951  | 1 Mar 1951 (see s. 2 and<br><i>Gazette</i> 23 Feb 1951 p. 412)   |
| <i>Agriculture Protection Board Act Amendment Act 1951</i>  | 19 of 1951<br>(15 Geo. VI<br>No. 19)   | 27 Nov 1951 | 27 Nov 1951  |
| <i>Agriculture Protection Board Act Amendment Act 1953</i>  | 84 of 1953<br>(2 Eliz. II<br>No. 84)   | 18 Jan 1954 | 18 Jan 1954  |
| <i>Limitation Act 1935</i><br>s. 48A(1)   | 35 of 1935<br>(26 Geo. V<br>No. 35) (as<br>amended by<br>No. 73 of<br>1954 s. 8) | 7 Jan 1936  | Relevant amendments (see<br>s. 48A and Second Sch. <sup>6</sup> ) took<br>effect on 1 Mar 1955 (see<br>No. 73 of 1954 s. 2 and <i>Gazette</i><br>18 Feb 1955 p. 343) |
| <i>Agriculture Protection Board Act Amendment Act 1956</i>  | 8 of 1956<br>(5 Eliz. II<br>No. 8)   | 11 Oct 1956 | 11 Oct 1956  |
| <i>Agriculture Protection Board Act Amendment Act 1957</i>  | 2 of 1957<br>(6 Eliz. II<br>No. 2)   | 19 Aug 1957 | 6 Jun 1958 (see s. 2 and<br><i>Gazette</i> 6 Jun 1958 p. 1168)   |
| <i>Agriculture Protection Board Act Amendment Act 1960</i>  | 70 of 1960<br>(9 Eliz. II<br>No. 70)   | 5 Dec 1960  | 30 Mar 1961 (see s. 2 and<br><i>Gazette</i> 30 Mar 1961 p. 836)  |
| <b>Reprint of the <i>Agriculture Protection Board Act 1950</i> approved 7 Aug 1961</b> (includes amendments listed above) |  |             |  |
| <i>Agriculture Protection Board Act Amendment Act 1964</i>  | 17 of 1964<br>(13 Eliz. II<br>No. 17)  | 8 Oct 1964  | 8 Oct 1964   |
| <i>Decimal Currency Act 1965</i>  | 113 of 1965  | 21 Dec 1965 | Act other than s. 4-9:<br>21 Dec 1965 (see s. 2(1));<br>s. 4-9: 14 Feb 1966 (see s. 2(2))  |

| Short title  | Number<br>and year | Assent      | Commencement  |
|--|--------------------|-------------|---|
| <b>Reprint of the <i>Agriculture Protection Board Act 1950</i> approved 23 Jul 1970</b> (includes amendments listed above) |                    |             |   |
| <i>Agriculture Protection Board Act Amendment Act 1970</i>   | 97 of 1970         | 8 Dec 1970  | 8 Dec 1970  |
| <i>Agriculture Protection Board Act Amendment Act 1976</i>   | 25 of 1976         | 9 Jun 1976  | 1 Jul 1976 (see s. 2 and <i>Gazette</i> 18 Jun 1976 p. 2048)    |
| <b>Reprint of the <i>Agriculture Protection Board Act 1950</i> approved 31 Aug 1976</b> (includes amendments listed above) |                    |             |   |
| <i>Acts Amendment (Financial Administration and Audit) Act 1958 s. 3</i>   | 98 of 1985         | 4 Dec 1985  | 1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)    |
| <i>Agriculture Protection Board Amendment Act 1986</i>   | 95 of 1986         | 10 Dec 1986 | 1 May 1987 (see s. 2 and <i>Gazette</i> 16 Apr 1987 p. 1364)    |
| <i>Acts Amendment (Public Service) Act 1987 s. 32</i>  | 113 of 1987        | 31 Dec 1987 | 16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)    |
| <i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>  | 20 of 1989         | 1 Dec 1989  | 15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)   |
| <i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>  | 32 of 1994         | 29 Jun 1994 | 1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)    |
| <i>Industrial Legislation Amendment Act 1995 s. 35</i>   | 1 of 1995          | 9 May 1995  | 1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389) |
| <i>Agricultural Legislation Amendment Act 1995 Pt. 2</i>   | 29 of 1995         | 18 Sep 1995 | 9 Dec 1995 (see s. 2 and <i>Gazette</i> 8 Dec 1995 p. 5936)     |
| <i>Local Government (Consequential Amendments) Act 1996 s. 4</i>   | 14 of 1996         | 28 Jun 1996 | 1 Jul 1996 (see s. 2)   |
| <i>Financial Legislation Amendment Act 1996 s. 64</i>  | 49 of 1996         | 25 Oct 1996 | 25 Oct 1996 (see s. 2(1))                                       |
| <i>Agricultural Legislation Amendment and Repeal Act 1998 Pt. 3</i>  | 9 of 1998          | 30 Apr 1998 | 4 Jul 1998 (see s. 2 and <i>Gazette</i> 3 Jul 1998 p. 3581)     |
| <b>Reprint of the <i>Agriculture Protection Board Act 1950</i> as at 3 Sep 1999</b> (includes amendments listed above)     |                    |             |   |

## Agriculture Protection Board Act 1950

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| Short title  | Number and year | Assent      | Commencement  |
|--|-----------------|-------------|---|
| <i>Public Transport Authority Act 2003</i> s. 140 <sup>7</sup>   | 31 of 2003      | 26 May 2003 | 1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384) |
| <i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 27  | 74 of 2003      | 15 Dec 2003 | 15 Dec 2003 (see s. 2)  |
| <i>Workers' Compensation Reform Act 2004</i> s. 175  | 42 of 2004      | 9 Nov 2004  | 4 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131)    |
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141   | 59 of 2004      | 23 Nov 2004 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)    |
| <b>Reprint 5: The Agriculture Protection Board Act 1950 as at 22 Sep 2006</b> (includes amendments listed above) |                 |             |   |
| <i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17   | 77 of 2006      | 21 Dec 2006 | 1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)     |

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<sup>1a</sup> 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

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| Short title   | Number and year | Assent      | Commencement                   |
|---|-----------------|-------------|--------------------------------|
| <i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 28 <sup>8</sup>                       | 43 of 2000      | 2 Nov 2000  | To be proclaimed (see s. 2(2)) |
| <i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 34 and 40-48 <sup>9</sup> | 24 of 2007      | 12 Oct 2007 | To be proclaimed (s. 2(2))     |

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<sup>2</sup> Under the *Public Sector Management Act 1994* s. 112(2), a reference to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector

Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

<sup>3</sup> Repealed by the *Public Service Appeal Board Act Repeal Act 1977*.

<sup>4</sup> The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26.

<sup>5</sup> 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).

<sup>6</sup> Section 48A and the Second Schedule were inserted by the *Limitation Act Amendment Act 1954* s. 8.

<sup>7</sup> The *Public Transport Authority Act 2003* s. 93 reads as follows:

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**93. Certain contributions by former body suffice**

An obligation imposed by the *Agriculture Protection Board Act 1950* section 11 on the Public Transport Authority of Western Australia to contribute in respect of a year is satisfied to the extent that The Western Australian Government Railways Commission had, before section 140 commenced, already made a contribution in respect of that year under that section.

<sup>8</sup> On the date on which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 28 had not come into operation. It reads as follows:

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**28. Agriculture Protection Board Act 1950 amended**

Section 8A of the *Agriculture Protection Board Act 1950* is amended as follows:

- (a) by deleting “1994,” and inserting instead —  
“ 1994 or ”;
- (b) by deleting “or the *Superannuation and Family Benefits Act 1938*”.

<sup>9</sup> On the date as at which this compilation was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 34 and 40-48 had not come into operation. They read as follows:

**34. Repeal**

The *Agriculture Protection Board Act 1950* is repealed.

**40. Meaning of terms used in this Subdivision**

In this Subdivision —

**Authority** means the Western Australian Agriculture Authority established under the *Biosecurity and Agriculture Management Act 2007*;

**commencement day** means the day on which section 34 comes into operation;

**Director General** means the chief executive officer of the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*;

**former account** means The Agriculture Protection Board Fund referred to in the repealed Act section 9;

**repealed Act** means the *Agriculture Protection Board Act 1950*.

**41. Funds in, or payable to, former account**

- (1) On the commencement day any moneys standing to the credit of the former account are to be credited to the Consolidated Account and the former account is then to be closed.
- (2) The Consolidated Account is to be credited with any money that became payable to the former account before the commencement day and that is paid after that day.

**42. Devolution of assets and liabilities**

On and after the commencement day —

- (a) the assets and rights of the APB that were immediately before that day vested in the APB vest in the Authority by force of this section; and
- (b) the liabilities of the APB (including a share of a liability) immediately before that day become, by force of this section, the liabilities of the Authority; and
- (c) any proceeding or remedy that immediately before that day might have been brought or continued by or available against or to the APB, may be brought or continued and are available, by or against or to the Authority; and
- (d) all records and data of the APB pass to the Authority.

**43. Proceeds of sale of certain assets**

- (1) If any assets vested in the Authority under section 42 that were purchased from moneys in the Declared Plants and Animals Control Fund referred to in the *Agriculture and Related Resources*

*Protection Act 1976* section 65 are sold, the proceeds from that sale must be credited to the Declared Pest Account established under the BAM Act.

- (2) If any assets vested in the Authority under section 42 that were purchased from moneys in the Skeleton Weed Eradication Fund established by the *Plant Pests and Diseases (Eradication Funds) Act 1974* section 5 are sold, the proceeds from that sale must be credited to the prescribed account referred to in section 2(5)(a).
- (3) The Authority may certify in writing that a specified asset was, or was not, purchased from moneys in a former account, and such a certificate is conclusive evidence of that fact, unless the contrary is shown.

**44. Exemption from State taxation**

- (1) In this section —  
*State tax* includes stamp duty chargeable under the *Stamp Act 1921* and any other tax, duty, fee, levy or charge under a law of the State.
- (2) State tax is not payable in relation to anything that occurs by reason of this Subdivision.

**45. Agreements and instruments generally**

Any agreement or instrument subsisting immediately before the commencement day —

- (a) to which the APB was a party; or
- (b) which contains a reference to the APB,

has effect on and after the commencement day as if —

- (c) the Authority were substituted for the APB as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the APB were (unless the context otherwise requires) amended to be or include a reference to the Authority.

**46. Immunity continues**

Despite the repeal of the *Agriculture Protection Board Act 1950*, where the APB had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the State.

**47. Registration of documents**

The Registrar of Titles is to take notice of the provisions of this Division and is empowered to record and register in the

appropriate manner the necessary documents, and otherwise to give effect to this Division.

**48. Saving**

The operation of any provision of this Division is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any assets, right or liability; or
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

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