

WESTERN AUSTRALIA

AGRICULTURE ACT 1988

(No. 24 of 1988)

ARRANGEMENT

Section

1. Short title
2. Commencement
3. Interpretation
4. Other enactments not affected
5. Department of Agriculture
6. Functions of department
7. Director General of Agriculture
8. Director General a body corporate
9. Powers of Director General
10. Deputy of the Director General
11. Public Service and other staff
12. Contracts and arrangements for services and projects
13. Application of *Financial Administration and Audit Act 1985*
14. Exemption from liability
15. Regulations
16. References in other laws
17. Transitional
18. Review of the Act

WESTERN AUSTRALIA

AGRICULTURE ACT

No. 24 of 1988

AN ACT relating to the Department of Agriculture and the Director General of Agriculture, and for incidental or connected purposes.

[Assented to 20 October 1988]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Agriculture Act 1988*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

“agricultural”, in relation to a matter, industry or community, means related to or associated with improving, developing, growing, investigating, marketing, or experimenting with crops, livestock or other primary produce within the State or elsewhere;

“department” means the Department of Agriculture mentioned in section 5;

“Director General” means the person holding the office of Director General of Agriculture mentioned in section 7 (1).

Other enactments not affected

4. This Act is additional to, and does not derogate from, any other enactment that—

- (a) confers functions on the Minister, the department or the Director General; or
- (b) confers functions on any other person in relation to agricultural matters.

Department of Agriculture

5. There shall continue to be a department of the Public Service under section 21 of the *Public Service Act 1978* designated as the Department of Agriculture.

Functions of department

6. (1) The functions of the department are—

- (a) to assist the Minister in the administration of Acts that relate to agricultural matters;
- (b) to provide research, advisory, diagnostic, training, extension, regulatory and other services and assistance to agricultural industries and communities;
- (c) to safeguard the productive soil and vegetation resources of agricultural industries and protect the environment;

- (d) to provide to the Government, as and when requested, advice and information on agricultural matters;
- (e) to promote the advancement of scientific knowledge in agricultural matters and the practical application of such knowledge;
- (f) to utilise the developed expertise of the department by means of the sale of knowledge and services and the exploitation of intellectual property.

(2) The performance of the functions of the department is subject to the direction and control of the Minister.

Director General of Agriculture

7. (1) There shall continue to be an office in the Public Service with the title Director General of Agriculture.

(2) The Director General shall hold office under and subject to the *Public Service Act 1978*.

(3) The Director General is the chief executive officer of the department.

Director General a body corporate

8. (1) The Director General is a body corporate with perpetual succession and a common seal.

(2) The corporate name of the Director General is “Chief Executive Officer of the Department of Agriculture” and the body corporate—

- (a) is capable of suing and being sued in that corporate name;
- (b) is capable of—
 - (i) holding land vested in, or placed under the control and management of, the body corporate under Part III of the *Land Act 1933*; and
 - (ii) acquiring and holding an interest in land under a lease or licence,

but otherwise is not capable of acquiring, holding or disposing of real property;

- (c) is capable of exercising any power conferred on the Director General under this Act or any other written law.

(3) Courts, judges and persons acting judicially shall take judicial notice of the common seal of the Chief Executive Officer of the Department of Agriculture on a document and shall presume that it was duly affixed unless the contrary is shown.

Powers of Director General

9. (1) Subject to subsection (3) and the *Public Service Act 1978*, the Director General has power to do all things necessary or convenient to be done for, or in connection with, the performance of the functions of the department.

(2) Without limiting the generality of subsection (1) the Director General may—

- (a) fix and collect fees, charges or other payments for or in respect of services provided by the department;
- (b) make applications for the grant of letters patent or the registration of designs in the corporate name of the Director General, or take other measures necessary or convenient for protecting intellectual property rights.

(3) The exercise of the powers of the Director General is subject to the direction and control of the Minister.

Deputy of the Director General

10. (1) The Minister may nominate an officer of the department to be the deputy of the Director General.

(2) A nomination under subsection (1) may be made by nominating the holder of an office by the term designating the office and any such nomination of the holder of an office shall be construed as the nomination of the person from time to time holding, acting in, or lawfully performing the functions of the office.

(3) Subject to subsection (4), if the Director General is absent from duty or from the State or is otherwise unable to perform his or her functions as Director General of Agriculture, the person nominated under subsection (1) may, by authority of this subsection, act in the office of Director General of Agriculture during the absence or inability and while that person is so acting—

- (a) that person may exercise all the powers of the Director General and anything done by that person in so exercising those powers has the like effect as if it were done by the Director General;
- (b) any act or thing that is required under a written law to be done to, by reference to or in relation to the Director General shall be regarded as effectively done if done to, by reference to or in relation to that person.

(4) Subsection (3) does not apply if a direction under section 42B (1) of the *Public Service Act 1978* has effect in relation to the performance of the functions of the Director General.

Public Service and other staff

11. (1) Under and subject to the *Public Service Act 1978*, there shall be such officers of the department as may be necessary to provide administrative, professional, scientific, technical, and other services to the department.

(2) The Director General may employ persons as wages or field staff otherwise than under the *Public Service Act 1978*, and persons so engaged shall, subject to any relevant industrial order, award or agreement, be employed on such terms and conditions as the Director General determines on the recommendation of the Public Service Commissioner.

Contracts and arrangements for services and projects

12. The Director General may—

- (a) engage any person under a contract for services to provide any of the services referred to in section 11 (1);
- (b) enter into arrangements with—
 - (i) a Minister of the Crown of any State or Territory, a Minister of State of the Commonwealth, a department, instrumentality, or agency of the Commonwealth or of any State or Territory;

- (ii) a university or other educational institution; or
- (iii) any other body or person,

with respect to the conduct of any study or research, the carrying out of any work, or participation in any project or venture, that may be necessary or convenient for, or in connection with, the performance of the functions of the department.

Application of *Financial Administration and Audit Act 1985*

13. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of departments apply to and in respect of the department.

Exemption from liability

14. The Minister, the Director General, the deputy of the Director General or a person employed in the department is not personally liable for anything done or omitted to be done by the Minister, the Director General in a personal or corporate capacity, the deputy of the Director General, or a person employed in the department, in good faith in, or in connection with, the performance or purported performance of a function under this Act.

Regulations

15. The Governor may make regulations prescribing all matters that are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

References in other laws

16. (1) In any written law a reference to the Director of Agriculture shall be construed as a reference to the Director General of Agriculture.

(2) Subsection (1) applies to a reference however the reference is expressed but does not apply if the context in which the reference occurs is such that its application would be incorrect or inappropriate.

Transitional

17. Subject to the *Public Service Act 1978*, the person holding the office of Director General of Agriculture, and the persons holding other offices in the Department of Agriculture, immediately before the commencement of section 5 shall continue to hold those offices after that commencement.

Review of the Act

18. (1) The Minister shall carry out a review of the operation and effectiveness of this Act after the expiration of 5 years from the commencement of section 5, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the department;
- (b) the need for the continuation of the functions of the department; and
- (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall complete the review required by subsection (1) and shall prepare a report based on that review and cause it to be laid before each House of Parliament within 12 months of the described expiration.
