

Western Australia

**Biosecurity and Agriculture Management
(Repeal and Consequential Provisions) Act 2007**

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Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

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Defined terms

Western Australia

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

An Act —

- **to repeal various Acts;**
- **to amend certain other Acts; and**
- **for purposes relating to those repeals and amendments and to the enactment of the *Biosecurity and Agriculture Management Act 2007*.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007*.

2. Commencement

- (1) Subject to subsections (3), (4) and (5) this Act comes into operation on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.
- [(3) deleted]*
- (4) Section 53 is not to come into operation before the Minister has certified, by written notice delivered to the Governor, that —
 - (a) a prescribed account, as defined in the BAM Act section 140, has been established under that Act for the cattle industry; and
 - (b) adequate provision has been made for compensation from that account in relation to cattle that are destroyed under that Act because of a disease in respect of which a declaration for the purposes of the *Cattle Industry Compensation Act 1965* section 8 was in effect immediately before the coming into operation of section 53.
- (5) Section 68 is not to come into operation before the Minister has certified, by written notice delivered to the Governor, that —
 - (a) a prescribed account, as defined in the BAM Act section 140, has been established under that Act for the grain and seed crops industry; and
 - (b) adequate provision has been made for compensation from the account in relation to grain, seed, crop or bags destroyed in the course of steps taken under that Act to control skeleton weed or any plant disease in respect of

which a designation under the *Plant Pests and Diseases (Eradication Funds) Act 1974* section 4(2) was in effect immediately before the coming into operation of section 68.

[Section 2 amended by No. 46 of 2010 s. 58.]

3. Meaning of terms used in this Act

In this Act —

APB means the Agriculture Protection Board established by the *Agriculture Protection Board Act 1950*;

assets means —

- (a) property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal; and
- (b) without limiting paragraph (a) includes choses in action, goodwill, rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

BAM Act means the *Biosecurity and Agriculture Management Act 2007*;

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

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, prospective or contingent.

Part 2 — Repeals, transitional provisions and consequential amendments

Division 1 — Preliminary

4. Application of *Interpretation Act 1984*

- (1) In this section —
authorisation includes a licence, permit, registration, approval, accreditation or certification.
- (2) Subject to any regulations made under subsection (4), the provisions of the *Interpretation Act 1984* (for example, sections 16(1), 36 and 38) about the repeal of written laws and the substitution of other written laws for those so repealed apply to the repeal of an Act mentioned in this Part as if that Act were repealed and re-enacted by the BAM Act.
- (3) The other provisions of this Act are additional to the provisions applied by subsection (2) and do not affect the operation of the provisions applied by subsection (2).
- (4) The Governor may make regulations under the BAM Act in relation to issues arising as a consequence of the operation of subsection (2).
- (5) Regulations made under subsection (4) may —
 - (a) include provisions that modify the operation of another written law or otherwise have effect despite another written law; and
 - (b) provide that an order, notice, direction, requisition or authorisation made or given under an Act repealed under Part 2 is to be taken to be an order, notice, direction, requisition or authorisation made or given under a provision of the BAM Act, or regulations made under that Act, specified in the regulations; and

(c) provide that subsection (2) does not apply to an order, notice, direction, requisition or authorisation specified in the regulations.

(6) Regulations made under subsection (4) in relation to a matter referred to in subsection (5)(a) or (c) must be made within such period as is reasonably and practicably necessary to deal with a transitional matter that arises as a result of the enactment of this Act or the BAM Act.

5. Transitional regulations

(1) If there is no sufficient provision in this Act for dealing with an issue or matter of a transitional nature that arises as a result of the enactment of this Act or the BAM Act, regulations under this Act may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter or issue.

(2) Without limiting subsection (1), regulations made under that subsection may provide that specified provisions of a written law —

(a) do not apply; or

(b) apply with specified modifications,

to or in relation to any matter.

(3) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the day on which the BAM Act comes into operation, the regulations have effect according to their terms.

(4) In subsections (2) and (3) —

specified means specified or described in the regulations.

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Part 2 Repeals, transitional provisions and consequential amendments

Division 1 Preliminary

s. 6

- (5) If regulations contain a provision referred to in subsection (3), the provision does not operate so as to —
- (a) affect in a manner prejudicial to any person (other than the State, an authority of the State or a local government), the rights of that person existing before the day of publication of those regulations; or
 - (b) impose liabilities on any person (other than the State, an authority of the State or a local government) in respect of anything done or omitted to be done before the day of publication of those regulations.
- (6) Regulations made under subsection (1) in relation to a matter referred to in subsection (2) must be made within such period as is reasonably and practicably necessary to deal with a transitional matter that arises as a result of the enactment of this Act or the BAM Act.

6. Regulations under repealed Acts: transitional provisions

Regulations made under the BAM Act may set out —

- (a) such provisions of a savings and transitional nature as are necessary or convenient for the purposes of dealing with matters that are incidental to or consequential on the amendment or repeal of regulations made under a repealed Act; and
- (b) such provisions of a transitional nature as are necessary or convenient to deal with a regulation made under a repealed Act ceasing to have effect because there is not power to make that regulation under the BAM Act.

7. Construction of references in written laws

Unless the context otherwise requires, a reference in a written law to an enactment repealed by this Act includes a reference to the corresponding provision, if any, of the BAM Act.

Division 2 — *Agriculture Act 1988*

Subdivision 1 — Repeal and consequential amendments

8. Repeal

The *Agriculture Act 1988* is repealed.

9. *Animal Welfare Act 2002* amended

- (1) The amendments in this section are to the *Animal Welfare Act 2002*.
- (2) Section 5(1) is amended in the definition of “Agriculture WA” by deleting “*Agriculture Act 1988*,” and inserting instead —
“ *Biosecurity and Agriculture Management Act 2007*; ”.

10. *Health Act 1911* amended

- (1) The amendments in this section are to the *Health Act 1911*.
- (2) Section 246B(2)(c) is deleted and the following paragraph is inserted instead —
“
(c) one shall be the chief executive officer of the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*, or an officer of that department nominated by that chief executive officer;

”.

11. *Land Administration Act 1997* amended

- (1) The amendments in this section are to the *Land Administration Act 1997*.
- (2) Section 97(1)(b) is deleted and the following paragraph is inserted instead —

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Part 2 Repeals, transitional provisions and consequential amendments

Division 2 Agriculture Act 1988

s. 12

“

- (b) one is to be the chief executive officer of the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*, or his or her appointee from time to time;

”.

Subdivision 2 — Transitional and savings provisions

12. Terms used in this Subdivision

In this Subdivision, unless the contrary intention appears —

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

commencement day means the day on which section 8 comes into operation;

former holder means the Chief Executive Officer of the Department of Agriculture established as a body corporate under the repealed Act section 8;

repealed Act means the *Agriculture Act 1988*.

13. Authority is successor in title of former holder

On commencement day the former holder is succeeded by the Authority.

14. Devolution of assets and liabilities

On and after the commencement day —

- (a) the assets and rights of the former holder that were immediately before that day vested in the former holder vest in the Authority by force of this section; and
- (b) the liabilities of the former holder (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 former holder, may be brought or continued and are available, by or against or to the Authority; and
- (d) all records and data of the former holder pass to the Authority.

15. Certain Crown land

Crown land that, immediately before the commencement day, is under the care, control and management of the former holder is to be regarded as if it had, at that time —

- (a) been reserved under the *Land Administration Act 1997* section 41 for the purposes of the *Biosecurity and Agriculture Management Act 2007*; and
- (b) under the *Land Administration Act 1997* section 46, been placed under the care, control, and management of the Authority for those purposes.

16. Certain intellectual property

- (1) On the commencement day any intellectual property, or right to apply for, hold, receive, exploit or dispose of intellectual property, that the State has immediately before that day is, by operation of this section, assigned to the Authority.
- (2) In subsection (1) —
intellectual property means intellectual property created in the performance of functions under the repealed Act.
- (3) The Minister may certify in writing that a specified intellectual property right was, or was not, created, acquired or held for the purposes of the repealed Act, and such a certificate is conclusive evidence of that fact, unless the contrary is shown.

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Part 2 Repeals, transitional provisions and consequential amendments

Division 4 Agricultural Produce (Chemical Residues) Act 1983

s. 17

17. Agreements and instruments generally

Any agreement or instrument subsisting immediately before the commencement day —

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

has effect on and after the commencement day as if —

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

[Division 3 (s. 18, 19) has not come into operation².]

Division 4 — *Agricultural Produce (Chemical Residues) Act 1983*

20. Repeal

The *Agricultural Produce (Chemical Residues) Act 1983* is repealed.

Division 5 — *Agricultural Products Act 1929*

Subdivision 1 — Repeal and consequential amendments

21. Repeal

The *Agricultural Products Act 1929* is repealed.

22. *Constitution Acts Amendment Act 1899* amended

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899*.

- (2) Schedule V Part 3 is amended by deleting “The Apple Sales Advisory Committee constituted under the *Agricultural Products Act 1929*.”.
- (3) Schedule V Part 3 is amended by deleting “The Citrus Sales Advisory Committee constituted under the *Agricultural Products Act 1929*.”.
- (4) Schedule V Part 3 is amended by deleting “The Stone-Fruit Sales Advisory Committee constituted under the *Agricultural Products Act 1929*.”.

23. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Agricultural Products Act 1929*”.
[Section 23 inserted by No. 58 of 2010 s. 192(2).]

Subdivision 2 — Transitional and savings provisions

24. Meaning of terms used in this Subdivision

In this Subdivision —

commencement day means the day on which section 21 comes into operation;

former account means the Agricultural Products Act Modified Penalties Revenue Fund established under the repealed Act section 8B;

repealed Act means the *Agricultural Products Act 1929*.

25. 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 Modified Penalties Revenue Account established under the BAM Act to be applied —
 - (a) in the payment of any liabilities of the former account which arose before the commencement day; and

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Division 6 Agriculture and Related Resources Protection Act 1976

s. 26

- (b) for the purposes set out in the BAM Act section 149, and the former account is then to be closed.
- (2) The Modified Penalties Revenue Account established under the BAM Act 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.

26. Reference to former account

If in an agreement, instrument or other document there is a reference to the former account, that reference is, unless the context otherwise requires, to be read and have effect on and after the commencement day as if it were a reference to the Modified Penalties Revenue Account established under the BAM Act.

Division 6 — *Agriculture and Related Resources Protection Act 1976*

Subdivision 1 — Repeal and consequential amendments

27. Repeal

- (1) The *Agriculture and Related Resources Protection Act 1976* is repealed on a day to be fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

28. *Bush Fires Act 1954* amended

- (1) The amendments in this section are to the *Bush Fires Act 1954*.

- (2) Section 26(5) is repealed and the following subsection is inserted instead —
- (5) In this section “plant” does not include a plant that is a declared pest as that term is defined by the *Biosecurity and Agriculture Management Act 2007*.
- (3) Section 26A(1) is amended by deleting “A plant that is a declared plant within the meaning of the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —

A plant that is a declared pest as that term is defined by the *Biosecurity and Agriculture Management Act 2007*

29. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Agriculture and Related Resources Protection Act 1976*”.

[Section 29 inserted by No. 58 of 2010 s. 192(3).]

30A. Firearms Act 1973 amended

- (1) This section amends the *Firearms Act 1973*.
- (2) Delete section 17B(3)(c) and insert:
- (c) shall not use a silencer otherwise than in conjunction with a .22 calibre rifle named and identified in the Corporate Licence referred to in subsection (7) for the purpose of shooting birds that are declared pests under the *Biosecurity and Agriculture Management Act 2007*;

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Division 7 Agriculture Protection Board Act 1950

s. 30

- (3) In section 17B(8) delete the definition of ***agriculture inspector*** and insert:

agriculture inspector means an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162;

[Section 30A inserted by No. 46 of 2010 s.59.]

Subdivision 2 — Transitional and savings provisions

30. Meaning of terms used in this Subdivision

In this Subdivision —

commencement day means the day on which the repealed Act Part V Division 6 is repealed;

repealed Act means the *Agriculture and Related Resources Protection Act 1976*.

[Section 30 amended by No. 46 of 2010 s. 60.]

31. Rates on pastoral leases

Despite section 27, the repealed Act Part V Division 6, as in force immediately before the commencement day, continues to apply in relation to a rate payable under that Division for a financial year commencing before the commencement day.

[32, 33. Deleted by No. 46 of 2010 s. 61.]

Division 7 — Agriculture Protection Board Act 1950

Subdivision 1 — Repeal and consequential amendments

34. Repeal

The *Agriculture Protection Board Act 1950* is repealed.

35. Constitution Acts Amendment Act 1899 amended

- (1) The amendment in this section is to the *Constitution Acts Amendment Act 1899**.

[* *Reprint 14 as at 21 April 2006.*

For subsequent amendments see Acts Nos. 5 and 28 of 2006.]

- (2) Schedule V Part 3 is amended by deleting “The Agriculture Protection Board of Western Australia constituted under the *Agriculture Protection Board Act 1950*.”.

36. Financial Management Act 2006 amended

- (1) The amendment in this section is to the *Financial Management Act 2006*.
- (2) Schedule 1 is amended by deleting “The Agriculture Protection Board of Western Australia”.

[37. Deleted by No. 46 of 2010 s. 62.]

[38. Deleted by No. 46 of 2010 s. 63.]

39. Public Sector Management Act 1994 amended

- (1) The amendment in this section is to the *Public Sector Management Act 1994*.
- (2) Schedule 2 item 48 is deleted.

Subdivision 2 — Transitional provisions

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*;

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Division 7 Agriculture Protection Board Act 1950

s. 41

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 —

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Division 7 Agriculture Protection Board Act 1950

s. 46

- (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.

Division 8 — *Argentine Ant Act 1968*

49. Repeal

The *Argentine Ant Act 1968* is repealed.

Division 9 — *Artificial Breeding of Stock Act 1965*

50. Repeal

The *Artificial Breeding of Stock Act 1965* is repealed.

51. *Constitution Acts Amendment Act 1899* amended

- (1) The amendment in this section is to the *Constitution Acts Amendment Act 1899**.
- (2) Schedule V Part 3 is amended by deleting “The Artificial Breeding Board constituted under the *Artificial Breeding Board Act 1965*.”.

Division 10 — *Beekeepers Act 1963*

52. Repeal

The *Beekeepers Act 1963* is repealed.

Division 11 — *Cattle Industry Compensation Act 1965*

Subdivision 1 — Repeal and consequential amendments

53. Repeal

The *Cattle Industry Compensation Act 1965* is repealed.

54. *Sentencing Act 1995* amended

- (1) The amendment in this section is to the *Sentencing Act 1995*.

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 11 Cattle Industry Compensation Act 1965

s. 55

- (2) Schedule 1 is amended by deleting the item relating to the *Cattle Industry Compensation Act 1965*.

55. Stamp Act 1921 amended

- (1) The amendment in this section is to the *Stamp Act 1921*.
(2) The Second Schedule item 3 is deleted.

Subdivision 2 — Transitional provisions

56. Meaning of terms used in this Subdivision

In this Subdivision —

commencement day means the day on which section 53 comes into operation;

former account means the Cattle Industry Compensation Fund established under the repealed Act section 21;

repealed Act means the *Cattle Industry Compensation Act 1965*.

57. Compensation claims made before repeal

Despite section 53, an application for compensation under the repealed Act that arose but that was not fully dealt with before the commencement day is to be dealt with under the repealed Act as if the Act had not been repealed.

58. 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 an account established for the cattle industry under the BAM Act section 141 (the **cattle industry account**) and the former account is then to be closed.
- (2A) Moneys credited to the cattle industry account as referred to in subsection (1) are to be applied for the following purposes —

- (a) in the payment of compensation payable on an application referred to in section 57 made under the repealed Act;
 - (b) in the payment of any liabilities of the former account which arose before the commencement day;
 - (c) in the payment of the costs of the provision of, or the promotion and encouragement of, scientific research for the improvement of cattle health and production;
 - (d) for the purposes set out in the regulations under the BAM Act section 141 establishing the account;
 - (e) for any other purpose that, in the opinion of the management committee established for the account, will promote and encourage the cattle industry.
- (2) The account established for the cattle industry under the BAM Act section 141 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.

[Section 58 amended by No. 46 of 2010 s. 64.]

59. Reference to former account

If in an agreement, instrument or other document there is a reference to the former account, that reference is, unless the context otherwise requires, to be read and have effect on and after the commencement day as if it were a reference to the account established under the BAM Act section 141 for the cattle industry.

Division 12 — Fertilizers Act 1977

60. Repeal

The *Fertilizers Act 1977* is repealed.

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 13 Plant Diseases Act 1914

s. 61

61. *Fair Trading Act 2010* amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Fertilizers Act 1977*”.
[Section 61 inserted by No. 58 of 2010 s. 192(4).]

Division 13 — *Plant Diseases Act 1914*

Subdivision 1 — Repeal and consequential amendments

62. Repeal

The *Plant Diseases Act 1914* is repealed.

63. *Agricultural Produce Commission Act 1988* amended

- (1) The amendment in this section is to the *Agricultural Produce Commission Act 1988*.
- (2) After section 12 the following section is inserted —

12A. Powers of officers, employees and other persons

- (1) Any officers, employees and other persons employed or engaged under section 12(2) by a producers’ committee established to administer a fruit fly foliage baiting scheme may, when authorised by the producers’ committee, 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 producers’ committee.
- (2) A person must not enter an orchard under subsection (1) unless —
 - (a) the person has taken reasonable steps to give the owner or occupier of the orchard notice of the intended entry; or

- (b) the owner or occupier of the orchard consents to the entry.
- (3) The notice must specify the purpose for which the entry is required and successive entries for that purpose are to be regarded as entries to which the notice relates.
- (4) The notice must be given not less than 24 hours before the power of entry is exercised.
- (5) In subsection (1) —
- orchard** means any land used for the purpose of growing or cultivating plants, and includes any garden, farm, vinery, vineyard, and hothouse, any place where any plant is cultivated or where any plant which has been cultivated is growing;
- specified area** means the portion of the State specified in a notice under section 11(1)(a)(ii) in relation to which the producers' committee is established.

64. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 delete “*Plant Diseases Act 1914*”.

[Section 64 inserted by No. 58 of 2010 s. 192(5).]

Subdivision 2 — Savings and transitional provisions

65. Meaning of terms used in this Subdivision

In this Subdivision —

commencement day means the day on which section 62 comes into operation;

former account means the Plant Diseases Modified Penalties Revenue Fund referred to in the repealed Act section 35AA;

repealed Act means the *Plant Diseases Act 1914*.

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 14 Plant Pests and Diseases (Eradication Funds) Act 1974

s. 66

66. 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 Modified Penalties Revenue Account established under the BAM Act to be applied —
 - (a) in the payment of any liabilities of the former account which arose before the commencement day; and
 - (b) for the purposes set out in the BAM Act section 149, and the former account is then to be closed.
- (2) The Modified Penalties Revenue Account established under the BAM Act 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.

67. Reference to former account

If in an agreement, instrument or other document there is a reference to the former account, that reference is, unless the context otherwise requires, to be read and have effect on and after the commencement day as if it were a reference to the Modified Penalties Revenue Account established under the BAM Act.

Division 14 — *Plant Pests and Diseases (Eradication Funds) Act 1974*

Subdivision 1 — Repeal and consequential amendment

68. Repeal

The *Plant Pests and Diseases (Eradication Funds) Act 1974* is repealed.

69. Bulk Handling Act 1967 amended

- (1) The amendments in this section are to the *Bulk Handling Act 1967*.
- (2) Section 34D is repealed and the following section is inserted instead —

“

34D. Company authorised to pay certain statutory contributions

- (1) The Company is authorised, without further authority than this section, to pay, in accordance with the provisions of —
 - (a) the *Plant Pests and Diseases (Eradication Funds) Act 1974*; or
 - (b) regulations made for the purposes of the *Biosecurity and Agriculture Management Act 2007* section 141,

the amount of any contribution for which a person who has delivered any grain or seed to the Company appears to be liable under those provisions.

- (2) The amount of a contribution so paid —
 - (a) is a debt due to the Company by the person in respect of whom it is paid; and
 - (b) is a first charge in priority to all claims on the moneys payable to that person in respect of grain and seed, other than a charge created under any other section.
- (3) Payment of an amount under subsection (1) operates to discharge the person from liability for that amount.

”.

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 14 Plant Pests and Diseases (Eradication Funds) Act 1974

s. 70

- (3) Section 51(1)(aa) is amended by deleting “the contribution paid by the Company in respect of a grower under the *Plant Pests and Diseases (Eradication Funds) Act 1974*” and inserting instead —

“

a contribution paid by the Company in respect of a person in accordance with a written law referred to in section 34D(1)

”.

Subdivision 2 — Transitional provisions

70. Meaning of terms used in this Subdivision

In this Subdivision, unless the contrary intention appears —
commencement day means the day on which section 68 comes into operation;

grain and seed crops account means the prescribed account referred to in section 2(5)(a);

repealed Act means the *Plant Pests and Diseases (Eradication Funds) Act 1974*.

71. Compensation claims made before repeal

- (1) Despite section 68, an application for compensation under the repealed Act that arose but was not fully dealt with before the commencement day is to be dealt with under the repealed Act as if that Act had not been repealed.
- (2) The amount of any compensation payable on a claim referred to in subsection (1) is to be paid from the grain and seed crops account.

72. Transfer and payment of skeleton weed moneys to relevant account

- (1) On and after the commencement day —
- (a) all moneys standing to the credit of the Skeleton Weed Eradication Fund established by the repealed Act section 5 (the *Fund*) are to be credited to the grain and seed crops account, and the Skeleton Weed Eradication Fund is then to be closed; and
 - (b) any contribution that —
 - (i) immediately before the commencement day is in the hands of a receiver under the repealed Act for payment to the Fund; or
 - (ii) after the commencement day is deducted as mentioned in subsection (2),is to be paid to the grain and seed crops account.
- (2) Sections 12 and 16 of the repealed Act are taken to continue to apply after the commencement day in respect of any contribution that was required to be, but that was not actually, deducted before that day.

73. Application of other Funds under the repealed Act

- (1) This section applies to any moneys that after the commencement day are standing to the credit of —
- (a) the Resistant Grain Insects Eradication Fund established by the repealed Act section 8A; or
 - (b) the Plant Diseases Eradication Fund established by the repealed Act section 8D.
- (2) On the commencement day any moneys referred to in subsection (1) are to be credited to the grain and seed crops account, and the funds referred to in subsection (1)(a) and (b) are then to be closed.

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 15 Seeds Act 1981

s. 74

Division 15 — *Seeds Act 1981*

74. Repeal

The *Seeds Act 1981* is repealed.

75. *Fair Trading Act 2010* amended

(1) This section amends the *Fair Trading Act 2010*.

(2) In Schedule 1 delete “*Seeds Act 1981*”.

[Section 75 inserted by No. 58 of 2010 s. 192(6).]

Division 16 — *Stock Diseases (Regulations) Act 1968*

76. Repeal

The *Stock Diseases (Regulations) Act 1968* is repealed.

77. *Auction Sales Act 1973* amended

(1) The amendments in this section are to the *Auction Sales Act 1973*.

(2) Section 30(3) is amended by deleting “person appointed as an inspector for the purposes of the *Stock Diseases (Regulations) Act 1968*” and inserting instead —

inspector appointed under the *Biosecurity and Agriculture Management Act 2007*

(3) Section 30(4) is amended by deleting “A person appointed as an inspector for the purposes of the *Stock Diseases (Regulations) Act 1968*” and inserting instead —

An inspector appointed under the *Biosecurity and Agriculture Management Act 2007*

- (4) Section 32(1) is amended by deleting “referred to in section 46 of the *Stock (Identification and Movement) Act 1970.*” and inserting instead —

issued under regulations made under the *Biosecurity and Agriculture Management Act 2007.*

78. Cattle Industry Compensation Act 1965 amended

- (1) The amendments in this section are to the *Cattle Industry Compensation Act 1965.*
- (2) Section 6 is amended as follows:
- (a) by deleting the definition of “Chief Inspector” and inserting instead —

Chief Inspector means —

- (a) before the coming into operation of the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 76, the person for the time being holding the office of Chief Inspector of Stock under the *Stock Diseases (Regulations) Act 1968*; and
- (b) after the coming into operation of that section, an inspector appointed by the Director General to the office of Chief Inspector of Stock for the purposes of this Act;
- (b) in the definition of “disease” by deleting “, within the meaning of the *Stock Diseases (Regulations) Act 1968,*”;

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 2 Repeals, transitional provisions and consequential amendments

Division 17 Stock (Identification and Movement) Act 1970

s. 79

- (c) in the definition of “specified disease” by deleting “within the meaning of the *Stock Diseases (Regulations) Act 1968*,”.

Division 17 — Stock (Identification and Movement) Act 1970

Subdivision 1 — Repeal and consequential amendment

79. Repeal

The *Stock (Identification and Movement) Act 1970* is repealed.

80. Soil and Land Conservation Act 1945 amended

- (1) The amendment in this section is to the *Soil and Land Conservation Act 1945*.
- (2) The Schedule is amended by deleting “*Stock (Identification and Movement) Act 1970*”.

Subdivision 2 — Transitional provision

81. Brands

- (1) In this section —
commencement day means the day on which section 79 comes into operation;
repealed Act means the *Stock (Identification and Movement) Act 1970*.
- (2) Any stock that was, immediately before the commencement day, duly branded with a brand registered under the repealed Act, is, for the purposes of the BAM Act, to be taken to be duly identified with an identifier under the BAM Act.
- (3) If a person was, immediately before the commencement day, the registered owner of a brand registered under the repealed Act —
- (a) that brand is to be regarded, for the purposes of the BAM Act, as a registered identifier; and

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Repeals, transitional provisions and consequential amendments

Part 2

Repeal and consequential amendment

Division 17

s. 81

- (b) that person is to be regarded, for the purposes of the BAM Act, as the registered owner of that identifier.
- (4) Subsections (2) and (3) apply, with such modifications and adaptations as are necessary, to earmarks registered under the repealed Act.
- (5) A registration referred to in this section, unless sooner cancelled or re-registered under the BAM Act, expires 5 years after the date of registration or re-registration, as the case may be, under the repealed Act.

[Division 18 (s. 82, 83) has not come into operation².]

**Part 3 — Amendments consequential to enactment of
*Biosecurity and Agriculture Management Act 2007***

84. *Animal Welfare Act 2002* amended

- (1) The amendments in this section are to the *Animal Welfare Act 2002*.
- (2) Section 26(2) is repealed and the following section is inserted instead —
 - (2) In this section —
stock has the meaning given to that term in the *Biosecurity and Agriculture Management Act 2007* section 6.

85. *Cattle Industry Compensation Act 1965* amended

[(1)-(3) Will not come into operation³]

- (4) Section 25 is repealed.

86. *Fair Trading Act 2010* amended

- (1) This section amends the *Fair Trading Act 2010*.
- (2) In Schedule 1 insert in alphabetical order:

Biosecurity and Agriculture Management Act 2007

[Section 86 inserted by No. 58 of 2010 s. 192(8).]

87. *Country Areas Water Supply Act 1947* amended

- (1) The amendments in this section are to the *Country Areas Water Supply Act 1947*.
- (2) Section 12C(1)(c) is amended by deleting “the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —

the *Biosecurity and Agriculture Management Act 2007*

88. Exotic Diseases of Animals Act 1993 amended

- (1) The amendments in this section are to the *Exotic Diseases of Animals Act 1993*.
- (2) Section 4(1) is amended as follows:
 - (a) in the definition of “inspector” by deleting paragraph (d) and inserting instead —
 - (d) an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162;
 - (b) in the definition of “officer” by deleting paragraph (d) and inserting instead —
 - (d) an inspector as that term is defined in the *Biosecurity and Agriculture Management Act 2007*, other than a police officer;
- (3) Section 6(6) is repealed.
- (4) After section 28 the following Division is inserted —

Division 3 — Stock on Crown land

28A. Control of stock on Crown land in proclaimed areas

- (1) In this section —

Crown land means land other than —

 - (a) land alienated from the Crown; or

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007

Part 3 Amendments consequential to enactment of Biosecurity and Agriculture Management Act 2007

s. 88

- (b) land that the Crown has lawfully agreed to alienate; or
- (c) land held under a lease lawfully granted by the Crown;

stock has the meaning given to that term in the *Biosecurity and Agriculture Management Act 2007*.

- (2) If it appears to the Governor that it is necessary or expedient to do so for the purpose of preventing the spread of an exotic disease or to eradicate or control an exotic disease in a part of the State, the Governor may by proclamation declare that this section applies to and in relation to the part of the State specified in the proclamation.
- (3) If a proclamation made under subsection (2) is in force in relation to a part of the State, then despite any other provision of this Act or any other Act or law to the contrary —
 - (a) the property in and right to possession of any stock that are on Crown land in the part of the State specified in the proclamation vest in the Crown; and
 - (b) the Minister may give such directions as the Minister thinks fit in relation to the treatment, or disposal, or both the treatment and disposal, of the stock; and
 - (c) no compensation is payable by or on behalf of the Crown by reason of the operation of this section.
- (4) A proclamation made under subsection (2) —
 - (a) must specify the day from which it is to take effect, being a day not earlier than 30 days after the publication of the proclamation in the Gazette; and

- (b) may be varied or revoked by further proclamation made by the Governor.

”.

- (5) Section 60(3) is amended by inserting after “*Stock Diseases (Regulations) Act 1968*” —

, as in force immediately before the coming into operation of the *Biosecurity and Agriculture Management Act 2007*,

[89. *Has not come into operation*².]

90. *Land Administration Act 1997* amended

- (1) The amendments in this section are to the *Land Administration Act 1997*.
- (2) Section 111(3) is amended by deleting “declared animals and declared plants on the land under the lease in compliance with the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —

declared pests on the land under the lease in compliance with the *Biosecurity and Agriculture Management Act 2007*

- (3) Section 112(2) is amended by deleting “declared animals and declared plants” and inserting instead —

declared pests

- (4) Section 117(a) is deleted and the following paragraph is inserted instead —

- (a) the *Biosecurity and Agriculture Management Act 2007*;

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Part 3 Amendments consequential to enactment of Biosecurity and Agriculture Management Act 2007

s. 91

91. *Local Government (Miscellaneous Provisions) Act 1960* amended

- (1) The amendments in this section are to the *Local Government (Miscellaneous Provisions) Act 1960*.
- (2) Section 474(7) is amended by deleting “, brand it with the brands, on the portions, and in the order, prescribed by the *Brands Act 1904*, in such manner as to show that the brand is the last brand at the time imprinted on the beast.” and inserting instead —

label it with an identifier in accordance with the
Biosecurity and Agriculture Management Act 2007.

[92. Deleted by No. 46 of 2010 s. 65.]

93. *Poisons Act 1964* amended

- (1) The amendments in this section are to the *Poisons Act 1964*.
- (2) Section 32(c) is amended by deleting “for the purposes of the *Agriculture and Related Resources Protection Act 1976* section 69” and inserting instead —

for the purposes of the *Biosecurity and Agriculture
Management Act 2007* section 42

[Section 93 amended by No. 46 of 2010 s. 66.]

94. *Taxation Administration Act 2003* amended

- (1) The amendment in this section is to the *Taxation Administration Act 2003*.

- (2) After section 3(1)(j) the following paragraphs are inserted —
- (ja) the *Biosecurity and Agriculture Management Act 2007* Part 6 Division 1 Subdivision 2;
 - (jb) the *Biosecurity and Agriculture Management Rates and Charges Act 2007*;

95. *Wildlife Conservation Act 1950* amended

- (1) The amendments in this section are to the *Wildlife Conservation Act 1950*.
- (2) Section 6(5) is amended by deleting “a declared plant within the meaning of the *Agriculture and Related Resources Protection Act 1976*” and inserting instead —

a declared pest as that term is defined in the *Biosecurity and Agriculture Management Act 2007*

Notes

- ¹ This is a compilation of the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> ³	24 of 2007	12 Oct 2007	s. 1 and 2: 12 Oct 2007; s. 3, Pt. 2 Div. 1 and 2 (s. 4-17) and s. 85(4): 24 Oct 2007 (see s. 2(1) and <i>Gazette</i> 23 Oct 2007 p. 5645); Pt. 2 Div. 9: 21 Feb 2009 (see s. 2(1) and <i>Gazette</i> 20 Feb 2009 p. 353); Pt. 2 Div. 11 and 14: 14 Aug 2010 (see s. 2(1), (4) and (5) and <i>Gazette</i> 13 Aug 2010 p. 4021 and Notices published in <i>Gazette</i> 13 Aug 2010 p. 4028); Pt. 2 Div. 7: 18 Dec 2010 (see s. 2(1) and <i>Gazette</i> 17 Dec 2010 p. 6349); s. 27 and Pt. 2 Div. 6 Subdiv 2: 23 Nov 2011 (see s. 2(1) and <i>Gazette</i> 22 Nov 2011 p. 4843); Pt. 2 Div. 4 and 5, s. 28, 29 and 30A, Pt. 2 Div. 8, 10, 12 and 13, Div. 15-17, s. 84, 86-88, 90, 91 and 93-95: 1 May 2013 (see s. 2(2) and <i>Gazette</i> 5 Feb 2013 p. 823)
<i>Agriculture and Related Resources Protection Amendment Act 2010</i> Pt. 3 (other than s. 59-61, 65 and 66)	46 of 2010	28 Oct 2010	11 Dec 2010 (see s. 2(b) and <i>Gazette</i> 10 Dec 2010 p. 6261)
<i>Acts Amendment (Fair Trading) Act 2010</i> s. 192(1)-(6) and (8)	58 of 2010	8 Dec 2010	1 Jan 2011 (see s. 2(c) and <i>Gazette</i> 24 Dec 2010 p. 6805)

^{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>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> Pt. 2 Div. 3 and 18 and s. 89 ²	24 of 2007 (as amended by No. 58 of 2010 s. 192(7))	12 Oct 2007	To be proclaimed (see s. 2)

² On the date as at which this compilation was prepared, the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* Pt. 2 Div. 3 and 18 and s. 89 had not come into operation. They read as follows:

“

Division 3 — Aerial Spraying Control Act 1966

18. Repeal

The *Aerial Spraying Control Act 1966* is repealed.

19. Transitional provision

- (1) In this section —
aerial spraying has the same meaning as in the repealed Act;
repealed Act means the *Aerial Spraying Control Act 1966*.
spray drift has the same meaning as in the repealed Act;
- (2) Sections 14(4), (5) and (6) and 15 of the repealed Act continue to apply in relation to aerial spraying carried out before the coming into operation of this section, and in relation to any spray drift from that aerial spraying.

Division 18 — Veterinary Chemical Control and Animal Feeding Stuffs Act 1976

82. Repeal

The *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976* is repealed.

83. Fair Trading Act 2010 amended

- (1) This section amends the *Fair Trading Act 2010*.

- (2) In Schedule 1 delete “*Veterinary Chemical Control and Animal Feeding Stuffs Act 1976*”.

[Section 83 inserted by No. 58 of 2010 s. 192(7).]

89. Fish Resources Management Act 1994 amended

- (1) The amendments in this section are to the *Fish Resources Management Act 1994*.
- (2) Section 4(1) is amended by deleting the definition of “noxious fish”.
- (3) Part 9 is repealed.
- (4) Section 193 is amended as follows:
- (a) by inserting “or” after paragraph (f);
 - (b) by deleting paragraph (g) and “or” after it.
- (5) Section 220 is amended as follows:
- (a) by inserting “or” after paragraph (b);
 - (b) by deleting paragraph (c) and “or” after it;
 - (c) in paragraph (d) by deleting “, (b) or (c)” and inserting instead —
“ or (b) ”.
- (6) Section 222(1) is amended by inserting after “regulations” —
“
or the *Biosecurity and Agriculture Management Act 2007*”.
- (7) Section 224(1)(a) is amended by inserting after “Act” —
“
or the *Biosecurity and Agriculture Management Act 2007*”.
- (8) Section 258(i) is deleted.

³ The *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 85(1)-(3) will not come into operation because the Act it purports to amend was repealed by s. 53 of this Act.

⁴ The *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 78 came into operation but the Act it purported to amend was repealed by s. 53 of this Act.

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
APB.....	3
assets	3
authorisation.....	4(1)
Authority	12, 40
BAM Act.....	3
cattle industry account	58(1)
commencement day	12, 24, 30, 40, 56, 65, 70, 81(1)
Director General.....	3, 40
former account	24, 40, 56, 65
former holder	12
Fund	72(1)
grain and seed crops account	70
intellectual property	16(2)
liability	3
repealed Act	12, 24, 30, 40, 56, 65, 70, 81(1)
right	3
specified	5(4)
State tax.....	44(1)
stock.....	84(2)