

PRODUCTION AND ENVIRONMENTAL LEGISLATION:

A Guide for Primary Producers

Farming for the Future

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Department of Agriculture and Food, Western Australia



Department of Agriculture and Food
Government of Western Australia



Production and Environmental Legislation: A Guide for Primary Producers

This guide provides a brief overview of legislation affecting agricultural land management in Western Australia. The legislation listed is State legislation unless otherwise noted.

Landholders may use the guide to gain a general understanding of their legal obligations to manage the environment and as a starting point from which to develop a legal register for an Environmental Management System.

Important note:

Whilst all care has been taken to ensure the accuracy of the information presented in this guide, it is not intended to be comprehensive and should not be seen as a substitute for professional legal advice. Additional information, including details of relevant Codes of Practice, can also be obtained from the agencies administering the listed legislation. These agencies, and other relevant organisations, are listed at the end of this document.

Common Law Duties

Legislation needs to be understood in light of the common law rights and obligations of landholders. The basic right of a landholder at common law is to use their property as they wish so long as they do not interfere with their neighbours and comply with the requirements of legislation. Landholders owe a duty of care not to cause foreseeable harm to their neighbours. This duty applies to the activities that landholders undertake of their own choice. The more hazardous the activity, the higher or stricter is the standard of care required of the landholder. A landholder also owes this duty of care in respect of hazards that come naturally to the property or have not been caused by the landholder, such as pest plants and animals or fire. If the landholder can foresee that the escape of the hazard from their own property may harm his or her neighbours, the landholder has a duty to take positive steps within her or his means to manage the hazard. Failure to fulfil the common law duty of care may render the landholder liable to compensate their neighbours for any harm suffered, regardless of compliance with any statutory obligations.

Also, the common law may award a remedy of damages to a neighbour for harm caused by the failure of a landholder to fulfill statutory obligations, even if the statute provides only a criminal penalty.

Common law duties can be overridden by statutes (laws passed by Parliament). The following section deals with some of the statutes that are relevant to environmental management in an agricultural context.

Vegetation Protection

Act	Summary of obligations	Administered by	Application
<p>Environmental Protection Act 1986</p> <p>This Act regulates a number of activities that may be harmful to the environment, including controls on clearing native vegetation and environmental harm.</p>	<ul style="list-style-type: none"> • Clearing native vegetation – a person proposing to clear native vegetation must obtain a permit unless the clearing is the subject of a specific exemption. ‘Clearing’ is broadly defined to include things such as draining or flooding of land, burning and grazing the vegetation. Native vegetation includes aquatic or terrestrial vegetation and includes dead vegetation (unless expressly excluded) but does not include vegetation in plantations. Exemptions are numerous and include clearing as a result of stock grazing within the terms of a pastoral lease; clearing of fence lines provided the maximum area cleared does not exceed 1 ha in a financial year and clearing which is approved under a licence to take flora under the <i>Wildlife Conservation Act 1950</i>. Penalties for illegal clearing are up to \$250,000 for an individual or \$500,000 for a company. • Environmental harm – if unauthorised clearing causes serious or material environmental harm, penalties of up to \$1 million apply. 	<p>Environmental Protection Authority / Department of Environment and Conservation (DEC)</p>	<p>All land including State waters</p>
<p>Country Areas Water Supply Act 1947</p> <p>This Act places restrictions on clearing land in certain catchments in order to protect water quality.</p>	<ul style="list-style-type: none"> • Clearing – persons wishing to clear vegetation in a controlled catchment must have a licence. Clearing without a licence is an offence. Note that the requirement to obtain a licence under this Act is in addition to the requirement to have a clearing permit under the <i>Environmental Protection Act</i>. 	<p>Department of Water</p>	<p>Only applies in six controlled catchments (eg Mundaring and Wellington)</p>
<p>Land Administration Act 1997</p> <p>The key Act governing the use of pastoral leases.</p>	<ul style="list-style-type: none"> • Protection of vegetation – a pastoral lessee must apply for a permit to clear vegetation, disturb the soil or to sow or cultivate non-indigenous pasture. Failure to obtain a permit is an offence. This requirement is in addition to the requirement for a clearing permit under the <i>Environmental Protection Act</i>. If soil and land conservation notice is issued on land under pastoral lease the notice has an effect of suspending of any permit to the extent of any inconsistency. 	<p>Pastoral Lands Board (through the Department for Planning and Infrastructure)</p>	<p>Pastoral leases only</p>

Soil and Land Management

Act	Summary of obligations	Administered by	Application
<p>Soil and Land Conservation Act 1945</p> <p>The Act aims to conserve soil and land resources and mitigate the effects of salinity, erosion and flooding.</p>	<ul style="list-style-type: none"> • Land degradation A Soil Conservation Notice (SCN) may be applied where land degradation has occurred, or is likely to occur, on a pastoral or agricultural land. “Land degradation” includes salinity, erosion, flooding and the removal or deterioration of natural or introduced vegetation. It is an offence not to comply with a SCN. Penalty for contravention or failure to comply with the SCN is up to \$3,000. • Drainage: <ul style="list-style-type: none"> – Proposals to drain or pump water <u>to control salinity</u> will usually require the person to give at least 90 days notice in writing. – <u>Any proposals</u> to drain or pump water from, on or under the land within the Peel Harvey Catchment Area will require the person to give at least 90 days notice in writing. – Failure to give notice is an offence, and may expose the offender to an offence of causing serious or material environmental harm. • Voluntary conservation covenants An owner of land may enter into a conservation covenant to protect native vegetation on the land. While a memorial of the covenant remains registered it binds each person successively becoming an owner or occupier of the land. 	<p>Commissioner of Soil and Land Conservation (Department of Agriculture and Food)</p>	<p>All agricultural and pastoral land in WA</p>
<p>Land Administration Act 1997</p> <p>The key Act governing the use of pastoral leases.</p> <p>The Act establishes the Pastoral Lands Board (PLB) which is responsible for ensuring that leases are managed on an ecologically sustainable basis.</p>	<ul style="list-style-type: none"> • Duties on lessee – pastoral lease is to be used for pastoral purposes only except where the permit was granted to use it for some other purpose. Lessee must manage the lease using best pastoral and environmental management practice, appropriate to the area where the lease is situated. Failure to manage the lease in a sustainable way may lead to the lessee being given directions to remedy any resultant problems. • Declared plants and animals – lessees are required to control declared plants and declared animals on the land in compliance with <i>Agriculture and Related Resources Protection Act 1976</i>. • Annual returns – lessees must after 30 June in each year and not later than 31 December in that year, submit to the Board an annual report providing information about the land under lease and production activities on that land. 	<p>Pastoral Lands Board (through the Department for Planning and Infrastructure)</p>	<p>Pastoral leases only</p>

<p>Planning and Development Act 2005</p> <p>This Act establishes system of land use planning and development with the aim of ensuring proper and orderly development.</p>	<ul style="list-style-type: none"> • Development approval – approval is required for certain “developments” or changes of land use under local or regional planning schemes. This will vary between different local governments. Failure to obtain approval when required to do so is an offence. 	<p>Local government WA Planning Commission</p>	<p>All land in the State, though controls vary between areas</p>
<p>Bush Fires Act 1954</p> <p>The Act contains provisions for preventing, controlling and extinguishing bushfires.</p>	<ul style="list-style-type: none"> • Firebreaks – landholders are required to comply with a notice from local government to construct firebreaks or undertake other activities to reduce the risk of fire. • Vehicle movement restrictions – landholders must not operate harvesters or tractors when restricted movement notice applies. 	<p>Fire and Emergency Services Authority (FESA) & Local Government</p>	<p>All land in the State</p>
<p>Dividing Fences Act 1961</p> <p>The Act addresses issues relating to construction and repair of dividing fences.</p>	<ul style="list-style-type: none"> • Liability for boundary fences – adjoining landholders are required to pay half of the amount of the value of the fence, and half of the costs of constructing and maintaining an appropriate dividing fence. Failure to reach agreement can be dealt with through the nearest Court. 	<p>No responsible authority – landholders responsible</p>	<p>Only applies to private land – no requirement for Crown land to be fenced</p>
<p>Control of Vehicles (Off-Road Areas) Act 1978</p> <p>This Act provides for the prohibition on the use of vehicles in certain places and establishment of permitted areas.</p>	<ul style="list-style-type: none"> • Prohibited areas – areas of public land can be declared to be prohibited to vehicles for the protection of environmental values. Private land can also be subject to such a prohibition, although this will not prevent the owner or lawful occupier from using vehicles on the land. In case of private land the consent of the owner or lawful occupier of the land needs to be obtained unless the public interest (as listed) requires that the land be declared “prohibited area.” 	<p>Local government Minister for Local Government</p>	<p>Can apply anywhere in the State</p>

Water Use

Act	Summary of obligations	Administered by	Application
<p>Rights in Water and Irrigation Act 1914</p> <p>The Act regulates the management, use and protection of water resources and provide for irrigation schemes.</p> <p>It also provides for controls on interfering with watercourses and wetlands.</p>	<p>Rules applying in proclaimed areas, irrigation districts, prescribed areas:</p> <ul style="list-style-type: none"> • Water (watercourses, wetlands and underground water) – it is an offence to take water in one of these areas unless the taking was authorised under a licence, a riparian right or a public right. The riparian and public rights allow water to be taken without a licence in some circumstances, although this is generally limited to taking it for domestic purposes, firefighting and for watering stock not held under intensive conditions. • Non-artesian wells – a licence is required to take water from a non-artesian wells in a proclaimed area unless the taking is for domestic and ordinary use, firefighting and for watering stock not held under intensive conditions. Certain types of wells may also be exempted from the licensing requirements (such as is the case for garden bores in Perth). • Artesian wells – all artesian wells must be licensed. Water use must comply with the terms of the licence. <p>Outside a proclaimed area, irrigation district, prescribed area</p> <ul style="list-style-type: none"> • Water (watercourses, wetlands and underground water) – a licence is not required to take water outside one of these districts under the riparian and public rights above. In addition, water can be taken for any other purpose without a licence provided the amount of water in the watercourse or wetland is not sensibly diminished. • Non-artesian wells– a licence is not required to take water from a non-artesian well in a proclaimed area if the use is for domestic or ordinary purposes, for firefighting, watering cattle or other stock not held under intensive conditions. • Artesian wells – all artesian wells must be licensed. Water use must comply with the terms of the licence. • A bore is considered a well under the Act. 	<p>Department of Water</p>	<p>All land in WA, although different rules can apply in proclaimed areas, prescribed areas and areas subject to local by-laws</p>

Watercourse and Wetland Protection

Act	Summary of obligations	Administered by	Application
<p>Rights in Water and Irrigation Act 1914</p> <p>In addition to controlling taking of water, the Act also controls activities that may adversely impact on watercourses and wetlands.</p>	<ul style="list-style-type: none"> • Interference with watercourses and wetlands – a permit is required to interfere with a watercourse or wetland on any land within a proclaimed area or irrigation district or any watercourse or wetland on Crown land outside of one of these areas. • Building or altering a dam – a permit is required to build or alter a dam on a watercourse within a proclaimed area unless exempted under a local by-law. Approval is not required to build or alter an off-stream dam <i>provided</i> the works do not diminish the flow of water in the watercourse. • Constructing or altering a well – the construction or alteration of a well generally requires a licence. During the currency of the licence no alterations shall be made on or in connection with the well, but works necessary for the maintenance of the well. In an emergency, work may be carried out but the written notice is to be provided to the Commission within seven days after the commencement. 	<p>Department of Water</p>	<p>All land in WA, although different rules can apply in proclaimed areas, prescribed areas and areas subject to local by-laws</p>
<p>Waterways Conservation Act 1976</p> <p>This Act provides a mechanism to protect and manage certain waters and associated land and environment.</p>	<ul style="list-style-type: none"> • Controls on activities impacting on watercourse – approval, licence or permit may be required for certain works/development within a management area, including removal of weeds and other matter causing pollution, and draining into a watercourse. Failure to comply with the approval, licence or permit is an offence. 	<p>Department of Water</p>	<p>Does not apply to management area of the Swan River Trust. Only applies to areas declared by Order in Council and published in the Government Gazette</p>

<p>Swan River Trust Act 1988</p> <p>This Act places controls on activities impacting on the Swan River management area.</p> <hr/> <p>This Act is to be repealed by Swan and Canning Rivers Management Act 2006. This Act is expected to come into effect some time in 2007. S 1 & 2 commenced in October 2006. The rest of the Act: S 3, Parts 2 to 10 and Schedules 1-8 have not come into operation yet.</p> <p>Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006 S 1 & 2 commenced in October 2006. The rest of the Act: S 3, Parts 2 to 4 and Schedule 1 have not come into operation.</p>	<ul style="list-style-type: none"> • Development approval – approval of the Minister / Swan River Trust is required for any development carried out within the Management Area. • Matters to be considered - in its performance the Trust must have regard to the interest of navigation, fisheries, agriculture and water supply, need to protect natural beauty and wildlife habitat of the management area. The Trust should also perform functions delegated to it by the Environmental Protection Act 1986 relating to pollution and environmental harm. <hr/> <ul style="list-style-type: none"> • The new Act will bring together management of rivers and adjacent Crown land reserves. • A River protection notice (property specific) can be issued by the Swan River Trust to the owner or occupier of the land requiring landholder to take action to ensure the health of the rivers. Failure to comply with a notice is an offence punishable by a fine of up to \$50 000. <p>Further information could be obtained from the Swan River Trust website :</p> <p>http://portal.environment.wa.gov.au/portal/page?_pageid=973,1&_dad=portal&_schema=PORTAL</p>	<p>Swan River Trust</p>	<p>Only applies to Swan, Avon, Helena, Canning and Southern Rivers management area</p> <hr/> <p>New Swan Canning Riverpark is to be established and will consist of the waterways and adjacent Crown land reserves. Catchment area includes Swan and Canning Rivers and tributaries and Avon River and its tributaries. No private property can be included in Riverpark.</p>
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<p>Environmental Protection Act 1986 - Policies</p> <p>Under this Act, two “environmental protection policies” have been established to protect the values of certain wetlands.</p>	<ul style="list-style-type: none"> • South West Agricultural Zone Wetlands Policy – protects wetlands registered under the Policy from further degradation by such damaging human activities as filling, excavating, discharging of effluent, draining and damaging or clearing fringing native vegetation. It also promotes the rehabilitation of wetlands in the South West Agricultural Zone of the State. Wetlands listed under this policy cannot be interfered with except under approval. Only applies to wetlands that have been entered onto the register, and this is only done with the consent of the owner. • Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 – the purpose of this policy is to protect the environmental values of lakes on the Swan Coastal Plain. Under this policy the filling, draining, excavating, polluting and clearing of these lakes is an offence unless authorised by the EPA. • Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992 - the purpose of this policy is to set out environmental quality objectives for the Estuary which if achieved will rehabilitate the Estuary and protect the Estuary from further degradation; and to outline the means by which the environmental quality objectives for the Estuary are to be achieved and maintained. 	<p>Environmental Protection Authority</p>	<p>Currently there are only two wetlands on the Register of Protected Wetlands. These are Lake Monjingup in the Shire of Esperance and Koojeda Swamp in the Shire of Northam. Policy therefore does not apply to areas outside the South West Land Division</p> <p>Applies to Swan Coastal Plain area</p> <p>Applies to Peel-Harvey Catchment Area</p>
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<p>Environment Protection and Biodiversity Conservation Act 1999 (Cth) protects the environment, particularly matters of National Environmental Significance (Protected matters). It streamlines national environmental assessment and approvals process, protects Australian biodiversity and integrates management of important natural and cultural places.</p> <p>The Australian Government's amendments to the EPBC Act were passed by the Parliament on 7 December 2006. Most of the amendments commenced on 19 February 2007.</p> <p>This Commonwealth law establishes a number of controls on environmental damage, in this case, damage to internationally recognised wetlands ("Ramsar wetlands").</p>	<ul style="list-style-type: none"> • Ramsar wetlands – are recognised as a matter of national environmental significance under the EPBC Act's assessment and approval provisions. A person must not take an action that has, will have, or is likely to have, a significant impact on the ecological character of a Ramsar wetland, without approval from the Commonwealth Environment Minister. • Before the Minister makes a declaration relating to a wetland wholly or partly within a State, the Minister must inform the appropriate Minister of the State or Territory of the proposal to make the declaration, and give him or her reasonable opportunity to comment on the proposal. 	<p>Department of Environment and Heritage (Cth)</p>	<p>Applies to the 12 Ramsar wetlands in WA</p>
<p>Planning and Development Act 2005</p> <p>This Act establishes system of land use planning and development with the aim of ensuring proper and orderly development.</p>	<ul style="list-style-type: none"> • Development approval – is required for certain "developments" or changes on land use under local or regional planning schemes. This will vary between different local governments, but may include things such as demolition, erection, construction, alteration or excavation. Failure to obtain approval when required to do so is an offence. 	<p>Local government WA Planning Commission</p>	<p>All land in the State, though controls vary between different areas</p>

<p>Health Act 1911</p> <p>This Act regulates protection of human health.</p>	<ul style="list-style-type: none"> • Polluting water supply – it is an offence to pollute a water supply or associated catchment. Water supply includes any river, stream, watercourse, creek, swamp, water-hole, well, tank, lake or reservoir containing water intended or available for human consumption. See also the “pollution” section following. 	<p>Local governments Department of Health</p>	<p>Whole State</p>
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Biodiversity Conservation

Act	Summary of obligations	Administered by	Application
<p>Wildlife Conservation Act 1950</p> <p>This Act is directed to protecting and conserving of the State's native flora and fauna.</p>	<p>In regard to native fauna, the Act provides:</p> <ul style="list-style-type: none"> • All species of native fauna are protected unless declared otherwise by the Minister for the Environment. The dingo is the only native vertebrate animal currently listed as unprotected. • Under the Agriculture and Related Resources Protection Act 1976, dingoes in WA must be controlled in agricultural and pastoral areas but they are left undisturbed in the rest of the State. • The Minister may request that certain species, listed as 'threatened', be given special protection. A list of such species and management requirements is kept by Department of Environment and Conservation. • It is an offence to 'take' protected or threatened fauna without authorisation from Department of Environment and Conservation. 'Taking' includes killing, capturing, hunting and disturbing. • The Minister may declare an 'open season' on certain protected native species at certain times and in certain locations. Species for which an open season may be declared include red kangaroos, euros and western grey kangaroos. During an open season, species numbers can be controlled or reduced as long as an appropriate permit has been obtained from Department of Environment and Conservation. <p>In regards to native flora, the Act provides that:</p> <ul style="list-style-type: none"> • All native flora is protected. • The Minister may request that certain species, listed as 'rare', be given special protection. A list of such species and management requirements is kept by Department of Environment and Conservation. • It is an offence to 'take' native flora on Crown land without authorisation from Department of Environment and Conservation. 'Taking' includes gathering, cutting, destroying or otherwise damaging. It is also an offence to take flora on private land for the purpose of sale without approval from Department of Environment and Conservation (or the Minister in the case of rare species). 	<p>Department of Environment and Conservation (DEC)</p>	<p>All land in WA</p>

<p>Environmental Protection Act 1986</p> <p>This Act provides for a number of controls relating to biodiversity.</p>	<ul style="list-style-type: none"> • Environmental impact assessment – proposals likely to have a significant impact on the environment are generally required to be referred to the Environmental Protection Authority (EPA) for an assessment. It is an offence to proceed with a proposal that has been referred to the EPA without approval. • Licensing and works approval – certain activities require approval before commencing – this includes certain types of aquaculture projects. • Clearing permit – a person intending to clear native vegetation will need a permit unless the activity is exempt. Significant penalties may apply for contravening these provisions. • Environmental harm – it is an offence to cause serious or material environmental harm (for example, by draining water into a nature reserve which results in the death of native vegetation). A person will have a defence to such a charge if (for example) the person had approval to undertake the activity. 	<p>Environmental Protection Authority</p>	<p>All land in WA</p>
<p>Fish Resources Management Act 1994</p> <p>Act dealing with the management of fish species. (including inland fisheries and marine plants)</p>	<ul style="list-style-type: none"> • Restrictions apply to certain species of fish, ranging from complete bans to bag limits. Controls may also apply on a regional basis. • Licences are required by some fishers, especially commercial fishers. 	<p>Department of Fisheries</p>	<p>Whole State</p>
<p>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</p> <p>Commonwealth legislation intends to protect matters of national environmental significance and biodiversity.</p>	<ul style="list-style-type: none"> • Referral and approval of actions – a person must refer to the Commonwealth Minister for the Environment any action that is likely to have a significant impact on a matter of national environmental significance, including World Heritage Areas, Ramsar wetlands, threatened species and communities, and migratory species protected under international agreements. Failure to do so is an offence. 	<p>Department of Environment and Heritage (Cth)</p> <p>Environmental Protection Authority (WA) can assess proposals on behalf of the Commonwealth</p>	<p>Only applies to listed threatened species and communities, although these lists are extensive. Also applies to World Heritage Areas, Shark Bay and Purnululu</p>

<p>Conservation and Land Management Act 1984</p> <p>This Act is the chief means by which conservation areas are set aside and protected. This includes the power for the Department of Environment and Conservation to enter into agreements with private landholders for the protection of biodiversity.</p>	<ul style="list-style-type: none"> • Conservation agreements – DEC can enter into an agreement with a landholder to protect a biodiversity value on that land. This includes the power to enter into an agreement with a pastoral leaseholder with the agreement of the Minister for Lands. • Conservation reserves – it is an offence to graze stock on conservation reserves without approval. • Pets are prohibited in national parks, marine parks and reserves, conservation parks and nature reserves, as well as DEC-managed land around towns such as Broome, Fitzroy Crossing, Derby, Narrogin, Merredin, Katanning, Coral Bay, Esperance, Albany, Kalbarri, Moora, Lancelin, Cervantes, Monkey Mia and Carnarvon. 	<p>Department of Environment and Conservation (DEC)</p>	<p>Freehold and pastoral lease land throughout the State. (Timber reserves, national and conservation parks, nature reserves, marine nature reserves, marine parks and management areas, land reserved under the <i>Land Administration Act 1997</i> as specified.)</p>
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<p>Agriculture and Related Resources Protection Act 1976</p> <p>The Act provides for the management, control and prevention of certain plants and animals and is intended to limit the impacts of certain plants and animals on the States agricultural and pastoral industry.</p> <p>This Act is to be repealed by the proposed Biosecurity and Agriculture Management Act</p>	<p>In accordance with the provisions of the Act, landholders /occupiers must:</p> <ul style="list-style-type: none"> • Manage/control declared species according to the control category. • Inform the Department of any declared plant or animal species found on their land. • Not introduce, release or keep declared plants or animals on their land. <p>Local governments may also enact local laws requiring the control of pest plants.</p>	<p>Agriculture Protection Board</p> <p>Local government</p>	<p>All land in the State</p> <p>Different controls may apply in different areas</p>
<p>Land Administration Act 1997</p> <p>The key Act governing the use of pastoral leases.</p>	<ul style="list-style-type: none"> • Pastoral lessee must use methods of best pastoral and environmental management practice • Land is not to be used for any other purpose other than pastoral except in accordance with the permit. • The lessee must maintain the indigenous pasture and other vegetation on the land. • Non-indigenous pasture cannot be sown on a lease without a permit. • Permits to clear or develop pastoral land cannot be approved unless the requirements under other legislation, including the Wildlife Conservation Act 1950 and Soil and Land Conservation Act 1945, have been complied with. 	<p>Pastoral Lands Board (through the Department for Planning and Infrastructure)</p>	<p>Pastoral leases only</p>
<p>Sandalwood Act 1929</p>	<ul style="list-style-type: none"> • Sandalwood may only be removed if a licence has been obtained from DEC. 	<p>Department of Environment and Conservation (DEC)</p>	<p>All land</p>

<p>Animal Welfare Act 2002</p> <p>This Act provides for welfare, safety, and health of animals and safeguards the welfare of animals used for scientific purposes.</p>	<ul style="list-style-type: none"> • Animal cruelty – it is an offence to treat animals with cruelty. There are defences to a charge, such as normal animal husbandry or that a person was complying with an approved code of practice. • There is also provision in the Act for courts to impose orders to protect animals either by seizing an animal or preventing a person from owning a particular animal in the future. • The Act provides for substantial fines and/or imprisonment. An individual found guilty of a cruelty offence can face a maximum penalty of \$50,000 or five years imprisonment. 	<p>Department of Local Government and Regional Development, Local government, RSPCA, Department of Agriculture and Food, Department of Environment and Conservation and Department of Fisheries</p>	<p>Whole State</p>
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Chemical Use and Pollution

Act	Summary of obligations	Administered by	Application
<p>Environmental Protection Act 1986</p> <p>The Act is intended to protect the environment and prevent, control and abate pollution.</p>	<ul style="list-style-type: none"> • Pollution – it is an offence to cause pollution. Significant penalties may apply. • Works approval and licensing – certain activities are subject to special approval and licensing requirements, notably premises on which polluting activities take place (eg intensive cattle feedlots, certain piggeries etc). Failure to obtain a works approval or licence when required to do so is an offence. • Environmental harm –it is an offence to cause serious or material environmental harm without approval. 	<p>Department of Environment and Conservation (DEC)</p>	<p>Applies to entire State</p>
<p>Agricultural and Veterinary Chemicals Code Act 1994 (Commonwealth)</p> <p>Agricultural and Veterinary Chemicals (Western Australia) Act 1994 (WA)</p> <p>The co-operative legislative scheme of the Acts controls the import, manufacture, registration, packaging, labelling, distribution and retail sale of agricultural and veterinary chemicals in Australia.</p>	<ul style="list-style-type: none"> • Chemicals must be approved – all agricultural or veterinary chemicals must be approved before they can be sold in Australia. • Labels – It is an offence to contravene label directions regarding the transport, use and disposal of agricultural or veterinary chemicals unless you have obtained a permit. • Materials Safety and Data Sheets (MS & DSs) must be made available by the reseller at the point of sale for all Agricultural Chemicals and Veterinary Medicines. 	<p>Australian Pesticides and Veterinary Medicines Authority</p>	<p>Australia-wide</p>
<p>Health Act 1911</p> <p>Provides for the protection of human health, and covers things such as the storage, transport, use, and disposal of pesticides and pesticide containers.</p>	<ul style="list-style-type: none"> • Polluting water supply – it is an offence to pollute a water supply or associated catchment. • Human health – it is an offence to use a chemical in a way which endangers human health. • Licence – you must be licensed by the Department of Health to apply pesticides for payment or reward (including ‘Cockie spraying’) unless you are exempt. • Disposal – Pesticides and used pesticide containers may be disposed of in ways prescribed by the Regulations or in accordance with the written permission of the Executive Director, Public Health. 	<p>Department of Health Local government</p>	<p>Entire State</p>

<p>Agriculture and Related Resources Protection Act 1976</p> <p>Provides for certain restrictions on chemical use.</p> <p>This Act is to be repealed by the proposed Biosecurity and Agriculture Management Act</p>	<ul style="list-style-type: none"> • Restricted areas – certain chemicals may be subject to restriction or prohibition in certain areas of the State (e.g. in prescribed areas - spraying of 2, 4-D near certain prescribed vineyards is banned). • Agricultural chemicals – the Act provides protection from danger or detriment likely to result from the storage, use and transport of prescribed agricultural chemicals. 	<p>Department of Agriculture and Food</p>	<p>Prescribed areas</p>
<p>Aerial Spraying Control Act 1966</p> <p>This Act places controls on the conduct of aerial spraying of agricultural chemicals from aircraft.</p> <p>This Act is to be repealed by the proposed Biosecurity and Agriculture Management Act</p>	<ul style="list-style-type: none"> • Certificate – operators must hold a certificate. • Security – operators must hold security to pay for any damage that may result from their activities. • Report on operations – operators must report on activities. • Hazardous areas – areas can be protected from the spraying of certain chemicals. • Third party damages – a person claiming damage to crops as a result of aerial spraying must report the damage. 	<p>Department of Agriculture and Food</p>	<p>Entire State</p>
<p>Poisons Act 1964</p> <p>This Act regulates the control, possession sale and use of poisons and other substances.</p>	<ul style="list-style-type: none"> • Spraying certain chemicals – warning signs must be displayed where a Schedule 7 chemical is being sprayed in a public place. • To purchase scheduled poisons in schedules 2,3,4,7 or 8 a poisons permit or other authority to purchase must be obtained from the Pharmaceutical Services section of the Department of Health. It is an offence to purchase substances from these schedules without a permit, and it is also an offence for anyone to supply them to a person without an appropriate permit or authority. Applications for such a permit are to be made on a specific form available from the Department of Health. 	<p>Department of Health</p>	<p>Entire State</p>

<p>Agricultural Produce (Chemical Residues) Act 1983</p> <p>The purpose of the Act is to ensure that agricultural produce is not contaminated with excessive chemical residues and provide for the control of the use or disposal of agricultural produce in which chemical residues are present in excess of certain limits.</p> <p>This Act is to be repealed by the proposed Biosecurity and Agriculture Management Act</p>	<ul style="list-style-type: none"> • Land suspected of being contaminated with an agricultural chemical may be quarantined from grazing or cropping for such a time as is deemed necessary by the Department of Agriculture and Food. • Authorised persons may give directions that agricultural produce that is reasonably suspected to be contaminated may be not be used, sold or otherwise disposed of. • Authorised persons may give directions that agricultural produce that is confirmed to be contaminated be destroyed or otherwise disposed of. • Lessees must comply with any quarantine or direction notice issued to them by the Department. • Land used as a dip site may be contaminated with arsenic residues: such sites should be identified, tested and if necessary, isolated to ensure stock are not exposed to arsenic residues. 	<p>Department of Agriculture and Food</p>	<p>Entire State, although coercive controls apply largely to quarantine land</p>
<p>Dangerous Goods (Transport) Act 1998</p> <p>The Act controls the transport of dangerous goods by vehicles.</p>	<ul style="list-style-type: none"> • Most producers would not normally transport sufficient quantities of dangerous goods to be concerned with this legislation. However, if a large volume of a dangerous chemical is transported, a manifest providing details of the substance(s) being transported must be carried in the cab of the vehicle. • Vehicles transporting dangerous goods and their drivers must be licensed in accordance with the Act and regulations. • Note: this Act is set to be repealed once the <i>Dangerous Goods Safety Act 2004</i> comes into operation. 	<p>Department of Industry and Resources</p>	<p>Entire State</p>

<p>Explosive and Dangerous Goods Act 1961</p> <p>The Act controls the manufacture, import, use of explosives as well as classification, marking, storage, carriage and sale of explosives.</p>	<p>A licence is required from the Chief Inspector of Explosives and Dangerous Goods for any premises storing and handling dangerous goods in excess of quantities prescribed.</p> <p>To ensure compliance with the requirements of the Act and regulations, landholders should:</p> <ul style="list-style-type: none"> • Make inquiries as to whether a storage licence is required for dangerous and flammable goods including diesel and Avgas. • Comply with recommended storage specifications. • Ensure that appropriate measures are taken to contain spills of dangerous or flammable goods. <p>Protection of the environment from hazards associated with dangerous goods is largely the responsibility of the Department of Environment and Conservation. Note: this Act is set to be repealed once the <i>Dangerous Goods Safety Act 2004</i> comes into operation.</p>	<p>Department of Industry and Resources</p>	<p>Entire State</p>
<p>Veterinary Chemical Control and Animal Feeding Stuffs Act 1976</p> <p>Provide for the control of use of veterinary chemical products and regulation of the sale of stock, stock products and carcasses that have been treated with those products.</p> <p><i>This Act is to be repealed by the proposed Biosecurity and Agriculture Management Act</i></p>	<ul style="list-style-type: none"> • In addition to the requirements of the <i>Agriculture and Veterinary Chemicals Act 1995</i>, this Act makes it an offence to contravene product use, storage and disposal requirements, as established on the label of a veterinary chemical. • Provides for exemptions from the operation of the Act for veterinary chemical products used solely for research purposes. 	<p>Department of Agriculture and Food</p>	<p>Entire State</p>
<p>Metropolitan Water Supply Sewerage and Drainage Act 1909</p> <p>Controls activities that may impact on metropolitan water supplies</p>	<ul style="list-style-type: none"> • Use of pesticides in catchment areas – it is an offence to use a pesticide in a metropolitan catchment area without the Department of Water approval. 	<p>Department of Water</p>	<p>Metropolitan catchment areas</p>

<p>Biosecurity and Agriculture Management Bill 2006</p> <p>The proposed Act will replace 17 existing Acts within the Agriculture Portfolio</p>	<p>The proposed Act seeks to establish a modern biosecurity regulatory scheme to prevent serious pests, weeds and diseases from entering the State and to minimise the spread and impact of any that are present within the State. The Act would also establish controls in relation to agricultural and veterinary chemicals, fertilisers and animal feeding stuffs, and has the capacity to recognise and support industry standards.</p> <p>Further information can be obtained from the DAFWA's website.</p> <p>Copy of the Bill can be obtained from the Parliament WA website: http://www.parliament.wa.gov.au/index.htm</p>	<p>Department of Agriculture and Food</p>	<p>Entire State</p>
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Aboriginal and Cultural Heritage

Act	Summary of obligations	Administered by	Application
<p>Heritage of Western Australia Act 1990</p> <p>An Act to protect places of cultural heritage significance</p>	<ul style="list-style-type: none"> • Register of heritage places – approval is required for developments impacting on places on the register of heritage places. • Local government controls – local government may also provide for controls of local heritage places. 	<p>Heritage Council of WA, Local government</p>	<p>Applies to entire State, though controls depend on listing</p>
<p>Aboriginal Heritage Act 1972</p> <p>The Act aims to protect places and objects of Aboriginal heritage significance. Locations of Aboriginal heritage places and objects are “Aboriginal sites”.</p>	<ul style="list-style-type: none"> • Any person who has knowledge of aboriginal heritage places or objects shall report them to the Registrar of Aboriginal Sites at the Department of Indigenous Affairs, or a police officer, unless the person reasonably believes that the Registrar already knows of the place or object. • It is an offence to damage, destroy, or conceal Aboriginal places or objects (and similar related activities) without authorisation of the Registrar or the Minister of Indigenous Affairs. • The Governor of Western Australia and the Minister of Indigenous Affairs have powers to protect Aboriginal sites by declaration of protected areas to control access on a temporary basis or to compulsorily acquire the area, subject to the payment of compensation. • Land on which is located an Aboriginal site may be protected by means of a covenant between the landholder and the Minister of Indigenous Affairs. 	<p>Department of Indigenous Affairs</p>	<p>Entire State</p>
<p>Aboriginal and Torres Strait Island Heritage Protection Act 1984 (Commonwealth)</p> <p>The purposes of the Act are to protect and preserve areas and objects of particular significance to Aboriginals according to Aboriginal tradition.</p>	<ul style="list-style-type: none"> • Under the Act, the Minister for Aboriginal Affairs may declare an area or object is subject to the Act. It is an offence for a person to take action contrary to the terms of a declaration. 	<p>Commonwealth Department of Immigration and Multicultural and Indigenous Affairs</p>	<p>Declared objects or places</p>

<p>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</p> <p>Commonwealth legislation intended to protect matters of national environmental significance and biodiversity.</p>	<ul style="list-style-type: none"> • National Heritage List – from 1 January 2004, a person must refer to the Commonwealth Minister for the Environment any action that is likely to have a significant impact on the heritage values of a place entered onto the National Heritage List, which can include places of natural, cultural and indigenous heritage. Failure to refer a proposal is an offence. 	<p>Department of Environment and Heritage (Cth)</p> <p>EPA (WA) can assess proposals on behalf of the Commonwealth</p>	<p>Only applies to listed places – at the time of writing, there are only three properties on the List, and none are in WA</p>
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Additional information...

Organisation	Issues	Contact details
<p>Department of Environment and Conservation</p> <p>The Department of Environment and Conservation was formed on 1 July 2006 from the amalgamation of the Department of Environment and the Department of Conservation and Land Management.</p>	<ul style="list-style-type: none"> • Protection of native flora and fauna • Management of nature reserves • Waste disposal • Pollution • Native vegetation protection, clearing • Environmental harm • Water licensing • Waterway protection 	<p>(Environment: (08) 6364 6500 Freecall: 1800 780 300 Conservation: (08) 9334 0333</p> <p>www.naturebase.net www.portal.environment.wa.gov.au/portal/ www.calm.wa.gov.au/</p>
<p>Department of Agriculture and Food</p>	<ul style="list-style-type: none"> • Management of declared plants and animals – weeds and vermin • Covenants • Pastoral Lease inspections • Land degradation • Use of agricultural and veterinary chemicals • Stock feed additives 	<p>(08) 9368 3333 www.agric.wa.gov.au</p>
<p>Department of Indigenous Affairs</p>	<ul style="list-style-type: none"> • Aboriginal heritage 	<p>(08) 9235 8000 Easy Call Line 1300 651 077 www.dia.wa.gov.au</p>
<p>Department of Industry and Resources</p>	<ul style="list-style-type: none"> • Dangerous goods and flammable materials 	<p>(08) 9222 3333 www.doir.wa.gov.au/</p>
<p>Department of the Environment and Water Resources (Commonwealth)</p>	<ul style="list-style-type: none"> • Areas of national environmental significance • Aboriginal heritage 	<p>(02) 6274 1111 www.environment.gov.au/</p>
<p>Environmental Defender's Office</p>	<ul style="list-style-type: none"> • Environmental law 	<p>(08) 9221 3030 http://www.edowa.org.au/</p> <p>Freecall: 1800 175 542 (for WA callers outside the Perth metropolitan region)</p>
<p>Department of Health</p>	<ul style="list-style-type: none"> • Pesticide use and licensing • Water pollution • Noxious trade permits – intensive livestock raising 	<p>(08) 9222 4222 www.health.wa.gov.au</p>
<p>Local Government</p>	<ul style="list-style-type: none"> • Pollution • Control of weeds and pest animals 	<p>Contact local shire office</p>

Pastoral Lands Board	<ul style="list-style-type: none"> Administration of pastoral leases 	(08) 9347 5126 www.dpi.wa.gov.au/pastoral/1598.asp
State Law Publisher	<ul style="list-style-type: none"> Current version of all WA legislation Electronic updates of changes to legislation 	(08) 9321 7688 www.slp.wa.gov.au
Department for Planning and Infrastructure	<ul style="list-style-type: none"> Management of Crown land Planning policy 	www.dpi.wa.gov.au/
WA Planning Commission	<ul style="list-style-type: none"> Subdivision approvals Regional planning schemes Oversight of local planning 	(08) 9264 7777 www.wapc.wa.gov.au/
Department of Local Government and Regional Development	<ul style="list-style-type: none"> Provide policy advice on animal welfare issues Appoint and trains general inspectors- Inspection and licensing of establishments using and supplying animals for scientific purposes 	(08) 9217 1559 www.dlgrd.wa.gov.au