

**ARGENTINE ANT.**

8° Elizabeth II., No. XLIII.

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**No. 43 of 1959.**

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**AN ACT to provide for the Control, Prevention, and Destruction of Argentine Ants and for other purposes.**

*[Assented to 10th November, 1959.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Argentine Ant Act, 1959*, and shall come into operation on the first day of July, one thousand nine hundred and sixty.

Short title  
and com-  
mencement.

Interpre-  
tation.

2. In this Act unless the context requires otherwise—

“ants” means Argentine ants;

“authorised person” means a person authorised in writing by the Committee to enter premises for the purpose of, or incidental to, the control, prevention, or destruction of ants;

“Committee” means The Argentine Ant Control Committee constituted under this Act;

“council” has the same meaning as in the Municipal Corporations Act;

“Fund” means The Argentine Ant Control Committee Fund established under this Act;

“litter” includes refuse, garbage, and rank vegetation;

“local authority” means a council or a road board;

“Municipal Corporations Act” means the Municipal Corporations Act, 1906;

“occupier” has the same meaning as in the Municipal Corporations Act and the Road Districts Act;

“original Committee” means The Argentine Ant Control Committee constituted under the Argentine Ant Act, 1954, and as so constituted on the coming into operation of this Act;

“owner” has the same meaning as in the Municipal Corporations Act and the Road Districts Act;

“road board” has the same meaning as “Board” in the Road Districts Act;

See No. 32 of 1906, as approved for reprint 13/2/1950 in Vol. 4 of the Reprinted Acts, 1951, and as further amended.

“Road Districts Act” means the Road Districts Act, 1919; and

See No. 38 of 1919, as reprinted in Vol. 4 of the Reprinted Acts, 1951, and as further amended.

“treatment” means any manner of treatment having as its object the control, prevention, or destruction of ants, and includes the application by spraying, and laying of baits, of substances which destroy ants.

3. (1) A Committee constituted in accordance with the provisions of this Act has, under the Minister, the functions prescribed by this Act.

The Argentine Ant Control Committee.

(2) The name of the Committee is The Argentine Ant Control Committee.

(3) Five members, being four nominee members and one member appointed by the Governor, constitute the Committee.

(4) The Committee shall be successor to the original Committee.

(5) (a) The members of the original Committee who hold office on the thirtieth day of June, one thousand nine hundred and sixty are hereby deemed to have been appointed the Committee under and for the purposes of this Act, and each member shall hold office on and from the first day of July, one thousand nine hundred and sixty until his office becomes vacant in accordance with this section.

(b) The member representing The Country Municipal Councils' Association of Western Australia on the original Committee shall be deemed to have been nominated by the Minister and appointed by the Governor to represent the Country Municipalities on the Committee.

(c) The *ex officio* member of the original Committee shall be deemed to be the member appointed by the Governor to the Committee and to have been duly appointed as such member.

(6) The chairman of the Committee is the member appointed by the Governor.

(7) The four nominee members of the Committee respectively represent the bodies known as

- (a) the City of Perth;
- (b) the Local Government Association of Western Australia;
- (c) the Country Municipalities; and
- (d) the Road Board Association of Western Australia.

(8) The member representing the Country Municipalities shall be nominated by the Minister.

(9) (a) Each body other than the Country Municipalities represented on the Committee may by written notice delivered to the Committee,

- (i) appoint a person to act as deputy on the Committee when its nominee member is not available to act as a member of the Committee; or
- (ii) cancel an appointment so made of a person, and appoint instead another person to act as deputy.

(b) The Minister may by written notice delivered to the Committee,

- (i) appoint a person to act as deputy on the Committee for the member appointed by the Governor and another person to act as deputy on the Committee for the member nominated by him to represent the Country Municipalities when the member is not available to act as such; and
- (ii) cancel an appointment so made of a person, and appoint instead another to act as such deputy.

(c) A person who is appointed as deputy of a nominee member or the member appointed by the Governor, and while acting as such, has and may exercise the same powers as the member for whom he is deputy.

(10) Each member is entitled to hold office until his office becomes vacant in accordance with subsection (11) of this section, but may be removed from office by the Governor if, in the opinion of the Governor the member has become unsuitable to continue as a member because of mental or physical infirmity or illness, or because of neglect of duty as a member, or misbehaviour whether in his capacity as a member or otherwise.

(11) The office of member becomes vacant if

- (a) he dies;
- (b) he resigns by written resignation delivered to the Minister;
- (c) he is removed under subsection (10) of this section; or
- (d) having been nominated by a body mentioned in subsection (7) of this section or having been nominated or deemed to have been nominated by the Minister to represent the Country Municipalities, the nomination is withdrawn by notice in writing to that effect sent to the Committee by the body which nominated the member or the Minister in the case of the office of member representing the Country Municipalities.

(12) (a) Where a vacancy occurs in the office of a nominee member other than the member representing the Country Municipalities, the body which was represented by that member shall, within fourteen days from the date on which the vacancy occurs, nominate to the Minister a person who is willing to accept office as a member of the Committee.

(b) The Minister shall present the nomination to the Governor who shall appoint the person so nominated to represent that body on the Committee, but if within the stipulated time the Minister has not received the nomination, he shall inform the Governor who shall appoint such person as he thinks fit to so represent that body.

(c) Where a vacancy occurs in the office of the member representing the Country Municipalities, the Minister shall within fourteen days from the date on which the vacancy occurs, nominate a person who is willing to accept office as a member of the Committee and shall present the nomination to the Governor who shall appoint the person so nominated to represent the Country Municipalities.

(13) Three members of the Committee constitute a quorum of the Committee and may carry out the functions of the Committee as effectively as if all members were present.

(14) The decision of the Committee is that of the majority of the members, and is determined by the votes of the members, each member including the chairman having one vote, and where there is an equal division of votes on a motion, the motion is lost.

(15) No act or decision of the Committee is invalid or defective on the ground that when the act was done or the decision made, a vacancy existed in office of member of the Committee or on the ground of a defect in the nomination for, or appointment to, office of member of the Committee.

(16) The members of the Committee or their deputies while acting as such, are entitled to such remuneration, allowances, and leave of absence as are approved from time to time by the Governor.

(17) The Committee shall conduct its proceedings in such manner as the Committee decides, or if regulations are made relating to the conduct of the proceedings, in accordance with the regulations.

(18) The chairman shall convene the first meeting of the Committee.

(19) The Committee shall cause to be recorded and kept proper minutes of its proceedings.

4. (1) The functions of the Committee include, under the Minister,

General  
functions  
of the  
Committee.

- (a) the administration of this Act;
- (b) the treatment and eradication of ants;
- (c) purchasing or hiring equipment and purchasing materials, necessary for carrying out the administration of this Act;
- (d) employing or engaging the services of such persons as are necessary for carrying out the administration of this Act;
- (e) entering into contracts and arrangements for the purpose of carrying out the administration of this Act;
- (f) for the purposes of carrying out the administration of this Act, delegating, from time to time, for such period or periods, and on such terms and conditions, as the Committee considers fit, any of its powers, except this power of delegation to, or entering into agreements and arrangements with, local authorities, which are hereby authorised to accept and carry out powers delegated under this Act by the Committee, and enter into and carry out agreements or arrangements, made under this Act by the Committee with the local authorities;
- (g) authorising and directing expenditure from the Fund for the purposes of carrying out the administration of this Act; and
- (h) the exercise of such other powers as are conferred, and the discharge of such other duties as are imposed on the Committee by this Act.

(2) The Committee in the name of The Argentine Ant Control Committee may sue and be sued, enter into submissions to arbitration under the Arbitration Act, 1895, and may make and prosecute complaints of offences under the Justices Act, 1902.

Committee  
may sue,  
be sued  
and make  
complaints.

Vesting of  
property.

5. (1) (a) All property in the possession or control of or held by the original Committee for carrying out the administration of the Argentine Ant Act, 1954, and the scheme referred to therein, is on the coming into operation of this Act transferred to and vests in the Committee.

(b) All contracts entered into or rights enjoyed prior to the coming into operation of this Act by the original Committee shall be deemed to have been entered into or enjoyed by the Committee and the Committee shall take and exercise in respect thereof all the powers, duties, rights, liabilities and immunities of the original Committee.

(2) The Committee may, with the approval of the Minister, dispose of or sell in such manner as the Committee resolves, any property that vests in it pursuant to subsection (1) of this section.

(3) The Committee shall pay into the Fund any money that results from such disposal or sale and apply the money for the purposes of this Act.

(4) A reference in any other Act or regulation to the original Committee shall be construed as a reference to the Committee.

(5) Any persons employed or whose services are engaged by the original Committee on the coming into operation of this Act shall be deemed to have been employed or engaged by the Committee under the provisions of this Act.

The Fund.

6. The Committee, in such manner as the Auditor General approves, and is hereby authorised to approve,

(a) shall continue to keep open at the Treasury the account known as The Argentine Ant Control Committee Fund which shall be deemed to have been established under this Act, and the money standing to the credit of the Fund at the coming into operation



of this Act may be used under and in accordance with the provisions of this Act for the purposes thereof;

- (b) shall cause to be received into that account all money payable into the Fund under this Act; and
- (c) may operate upon the account.

7. The costs of administration of this Act, in excess of the money available from the Fund, shall be paid out of money appropriated by Parliament for that purpose. Further fund for administration.

8. (1) The Committee shall cause to be kept true and regular accounts— Accounts.

- (a) of money received by and money owing to the Committee;
- (b) of money paid and money owing by the Committee; and
- (c) of the purposes for which the money is owing or has been paid;

and shall cause the accounts to be balanced at the thirtieth day of June in each year.

(2) The Auditor General— Audit.

- (a) has in respect of the accounts of the Committee, the powers conferred upon him by the Audit Act, 1904;
- (b) shall arrange for the audit of the accounts;
- (c) shall, as soon as practicable after the completion of the audit in each year, prepare and deliver to the Committee a report on the audit of the accounts.

9. As soon as practicable after the end of each year, the Committee shall prepare, and submit to both Houses of Parliament, a report of its proceedings and operations during the year, together with a copy of the report of the Auditor General. Annual Report.

Execution of documents by the Committee.

10. (1) The Chairman of the Committee may execute documents on behalf and by authority of the Committee.

(2) Production of a document which purports to have been signed on behalf of the Committee by the Chairman is, in absence of proof to the contrary, proof that the document was executed on behalf and by authority of the Committee, without the necessity of proof of his signature or occupancy of office, or the authority of the Committee.

Service of documents on Committee.

11. (1) A person who desires to serve a document on the Committee may do so, by posting it addressed to "The Argentine Ant Control Committee, care of the Department of Agriculture, Perth."

(2) Proof of the posting of the document is, in absence of proof to the contrary, proof of service of the document at the time when in the ordinary course of post it would be delivered.

Service of documents by Committee.

(3) The Committee may serve documents in accordance with the provisions of section three hundred and fifty-two of the Road Districts Act, which provisions apply as if repeated *mutatis mutandis* in this section.

Committee may give certain notices by advertisement.  
Cf. *Gazette*, 31st October, 1952, p. 2634.

12. (1) Where it is the intention of the Committee to carry out the inspection of premises or treatment in an area in which several premises are situated, the Committee may instead of serving notice individually on the owners or occupiers, of its intention to enter the premises for the purpose of carrying out the inspection or treatment, publish in the *Gazette* and a newspaper circulating in the area, a notice of the intention directed to all owners and occupiers of premises in the area, without stating their respective names and addresses or particulars of the premises.

(2) A notice so published is, if published in the *Gazette* and in the newspaper on the same day, effectively served on all of those owners and occupiers on that day, or, if published on different days, on the later of those days.

13. (1) The Committee may from time to time, by an authorised person with or without assistants, plant and materials,

Power of person authorised by Committee to enter and treat premises.

- (a) lawfully enter premises;
- (b) inspect the premises and anything in or upon them for the purpose of detecting ants;
- (c) rid the premises, or by written notice served upon him, require the owner or occupier to rid the premises of litter;
- (d) where any movable thing is so placed in or upon the premises that it harbours or is likely to harbour ants or to hinder the treatment of the premises, move and rid it of ants, if any, and so place it in or upon the premises that it ceases to be likely to harbour ants or hinder the treatment, or by written notice served upon him, require the owner or occupier so to move, rid, and place it; and
- (e) carry out treatment of the premises in such manner whether by spraying, or laying baits, or otherwise, as is designed to control, prevent, or destroy the ants.

*Of. Gazette,*  
31st October,  
1952, p. 2635.

(2) Where a notice mentioned in paragraph (c) or (d) of subsection (1) of this section is served upon the owner or occupier of premises, but he does not comply with the requirement within fourteen days of service of the notice upon him, or within such longer period as the Committee specifies in the notice, he commits an offence against this Act, and without prejudicing his liability to penalty, the Committee may carry out the requirement, and recover the expense of doing so, from him in a court of competent jurisdiction.

(3) If required to do so by the owner or occupier of the premises, the authorised person shall produce for inspection his authorisation from the Committee.

(4) In exercising any of the powers conferred by this Act a person whose services are employed or engaged by the Committee shall cause as little inconvenience and damage as is practicable and shall give as much notice as in the circumstances practicable of his intention to enter premises to the occupant of them, if they are occupied, or to the owner of them, if they are not occupied.

Persons acting in good faith are not liable personally.

14. A person who, whether as Minister, a member of the Committee, or a person whose services are employed or engaged by the Committee, is not personally liable for anything which he does or omits in good faith in pursuance or purported pursuance of the provisions of this Act.

Obstruction is an offence.

15. A person who obstructs the Minister, the Committee or a person whose services are employed or engaged by the Committee, in the exercise of any power conferred or the carrying out of any duty imposed by this Act, commits an offence against this Act.

Offences generally.

16. A person who omits to do what he is required under this Act to do, or does what he is prohibited under this Act from doing, commits an offence against this Act.

Penalties. "This Act" includes regulations. Cf. No. 30 of 1918, s. 4.

17. A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned, is liable,

- (a) where the offence is not a continuing offence, to a maximum penalty of fifty pounds; and
- (b) where the offence is a continuing offence, to such maximum penalty as does not exceed fifty pounds and an additional amount of five shillings for each day during which the offence continues.

18. (1) In addition to other methods of proof available, production—

Proof of  
ownership or  
occupancy.

- (a) of the rate book of a council or a road board, or of a copy or extract purporting to be certified by the signature of the mayor or clerk of the council, or by the chairman or clerk of the road board as a copy or extract of the rate book, showing that a person is rated as the owner or occupier of premises; or
- (b) of a document purporting to be—
  - (i) a certificate signed by the Registrar of Deeds or his substitute or an Assistant Registrar of Deeds, that a person appears from a memorial of registration of a deed, conveyance, or other instrument to be the owner of premises;
  - (ii) a certificate signed by the Registrar of Titles, or an Assistant or Deputy Registrar, that a person's name appears in the Register Book kept under the Transfer of Land Act, 1893, as that of the owner of premises; or
  - (iii) a certificate signed by the Under Secretary for Lands, or the Under Secretary for Mines, that a person is registered in the Department of Lands and Surveys, or the Department of Mines, as the case may be, as the lessee or occupier of premises;

is until the contrary is proved, evidence that the person is the owner, lessee, or occupier, as the case may be, of the premises.

(2) Courts and persons having authority to hear, receive and examine evidence shall, for the purposes of this Act,

- (a) take judicial notice of a certificate and signature mentioned in subsection (1) of this section; and

- (b) presume as proved, in the absence of proof to the contrary, an averment in a claim, complaint or other document, that a person is or was at a stated time, owner or occupier of premises.

**Presumption  
of regularity.**

19. In a prosecution or other legal proceedings brought by or under the direction of the Committee, proof, unless evidence to the contrary is given, is not required

- (a) of the persons constituting, or holding office on, the Committee, or the regularity of their appointments;
- (b) of the presence of a quorum of the Committee or the regularity of the Committee's proceedings; or
- (c) of the authority of the Committee to bring the prosecution or proceedings.

**Regulations.**

20. (1) The Governor may make regulations which appear to him to be necessary or convenient for effectually carrying out the objects and purposes of this Act and may prescribe as the maximum penalty for a breach of the regulations, which is not a continuing breach, a penalty not exceeding fifty pounds, and where the breach is a continuing breach, such maximum penalty as does not exceed fifty pounds and an additional amount of five shillings for each day during which the breach continues.

(2) Without affecting the generality of the power conferred by subsection (1) of this section, the Governor by the regulations—

- (a) may require the owner or occupier of premises to make such preparations in or on the premises as are specified by the regulations or in writing by an authorised person, for facilitating or ensuring the effective carrying out of treatment under this Act of the premises;

- (b) may, where treatment of premises has been carried out under this Act, prohibit within such period of the treatment as is specified in the regulations, the owner or occupier of the premises from adversely affecting the treatment in any manner specified by the regulations or in writing by an authorised person, including watering, top-dressing, burning-off, or digging-in any part of the premises which has received treatment;
- (c) may authorise the Committee, where the owner or occupier of premises has not complied with the requirements of, or requisitioned under, the regulations to cause the requirements to be carried out at his expense and, without prejudicing his liability, if any, to penalty, to recover the amount expended from him in a court of competent jurisdiction; and
- (d) may prohibit, or impose restrictions on, the doing or omission of anything which will result, or be likely to result, in ants being introduced into an area which is free of ants or is about to be, is being, or has been subjected to treatment.

*Cf. Gazette of*  
21st March,  
1956, pp.  
718-719.

21. On and after the date of the coming into operation of this Act, the Argentine Ants (Argentine Ant Act) Regulations, 1955, published in the *Government Gazette* on the seventeenth day of June, one thousand nine hundred and fifty-five and as amended and in force on the firstmentioned date, shall, for the purposes of this Act, remain in full force and effect as if made under this Act, until revoked or amended by regulations made under this Act, which regulations the Governor is hereby empowered to make.

Regulations  
continued  
for purposes  
of this Act.