



Department of  
**Agriculture and Food**



## **DRAFT POLICY**

# **Funding mechanisms for biosecurity - Industry and community**

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## 1. BACKGROUND

Management of declared pests<sup>1</sup> requires investment from industry, or the community, where there is impact on the industry or community. A coordinated industry or community approach is the most effective way to minimise further spread of pests. This approach complements landholder responsibility under the *Biosecurity and Agriculture Management Act 2007* (BAM Act) for controlling declared pests on their land.

There are wide and varied needs for control programs for declared pests. Funding, amongst other resources, is required to implement these control programs. Funding mechanisms for biosecurity purposes are provided for under legislation such as the BAM Act, the *Agricultural Produce Commission Act 1988* (APC Act) and the *Local Government Act 1995* (LG Act).

## 2. PURPOSE AND SCOPE

**Purpose of this policy:** This policy provides the criteria and decision-making tree for determining the most appropriate funding mechanisms under the BAM Act, APC Act and LG Act to address a biosecurity issue.

**Scope of this policy:** This policy applies to decisions on funding mechanisms related to management of biosecurity issues relating to declared pests that are present in Western Australia.

## 3. FUNDING MECHANISMS

This section outlines the four funding mechanisms that could be applied for biosecurity purposes – two mechanisms are provided for under the BAM Act (declared pest rate and industry funding scheme), one under the APC Act (charges for services) and one under the LG Act (specified area rate). Attachment 1 provides sections of the Acts relevant to each funding mechanism.

### 3.1 Funding mechanisms under the BAM Act

The BAM Act provides two mechanisms for funding the control and management of declared pests – a land-based rating scheme and an industry-based funding scheme.

#### 3.1.1 Land-based rating under the BAM Act

Part 6, Division 1 of the BAM Act establishes a land-based rating scheme, known as the declared pest rate. As outlined in the second reading speech of the Biosecurity and Agriculture Management Bill 2006, this rating scheme is geographically-based and

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<sup>1</sup> Declared pests are organisms declared as prohibited under section 12 of the BAM Act and organisms declared under section 22(2) of the Act. Section 6 of the BAM Act defines “organism” as “(a) a living thing, except a human being or part of a human being; or (b) a prion or other prescribed organic agent that can cause disease; or (c) a disease”.

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continues the funding arrangements in the pastoral areas that were in place under the *Agriculture and Related Resources Protection Act 1976* (AARPA).

Under the BAM Act, the declared pest rate “*will allow rates to be imposed in prescribed areas of the state to raise funds for pest control purposes*” as stated in the second reading speech.

The Minister for Agriculture and Food determines a rate (“declared pest rate”) that is chargeable for a financial year in a prescribed area under section 130 of the BAM Act. Section 137 establishes the Declared Pest Account (DPA). Money collected from the rates determined by the Minister under section 130 is credited to the DPA. Section 139 provides that funds raised by these rates will be matched by funds from the Consolidated Account. These matching funds are also credited to the DPA under section 137.

Funds from the DPA can be expended for the control of declared pests for the purposes outlined in section 138 of the BAM Act. The key mechanism for the expenditure of the funds from the DPA<sup>2</sup> is through biosecurity groups recognised by the Minister under section 169 of the BAM Act. These groups are known as Recognised Biosecurity Groups (RBGs).

### **3.1.2 Industry-funding schemes under the BAM Act**

Part 6, Division 2 of the BAM Act provides for Industry Funding Schemes (IFS). Under section 141, these schemes are established by regulation for a sector of agricultural activity, as defined in section 6 of the BAM Act, in a part of the State or the whole of the State, and rely on producer contributions collected under the regulations. The second reading speech states that the industry-based rating schemes “*would enable producers to collectively fund control programs for specified declared pests that threaten a particular sector of industry and can provide compensation for losses suffered as a result of those pests or of control measures*”.

The industry contributions to the IFS are credited to the prescribed account set up under the regulations for the particular industry.

Section 145 allows the funds in the account to be expended for the control of declared pests and related activities as outlined in the IFS regulations. The mechanism for the expenditure of the funds collected from industry-rating schemes is through the management committees known as IFS Industry Management Committees (IMCs). IMCs advise the Director General on the administration of the prescribed accounts established under the relevant regulations. IFS have been established for the cattle industry, the sheep and goat industry and the grain, seeds and hay industry.

## **3.2 Charges for services under the Agricultural Produce Commission Act 1988 (APC Act)**

The APC Act applies to the horticultural industry and any other agricultural industry that is prescribed except broadacre cropping and grazing. A number of industries have been prescribed including pork, beekeeping and egg production. The Agricultural

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<sup>2</sup> The Director General of DAFWA also has the authority to expend the funds for purposes under sections 138(b)-(f) of the BAM Act. This framework is similar to that under AARPA and to date these provisions have not been utilised.

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Produce Commission, established under section 4 of the APC Act, may impose a charge for services provided by a producers' committee established under section 11 of the Act. The charges are to be based on the cost or estimated cost of providing a service which the producers committee is authorised to provide. The various services that may be provided by a committee, if prescribed in relation to the relevant agricultural produce, are set out in section 12(1) of the APC Act.

Amongst other things, a producers committee may provide a service to:

- control or develop the means of controlling pests and diseases if there is a likelihood of those pests or diseases affecting the quality or volume of output of the agricultural produce
- establish systems of inspection for the agricultural produce for the purpose of quality control or pest and disease control
- establish a compensation scheme for the benefit of producers whose agricultural produce is destroyed as a result of action taken to control a pest or disease of that produce

Charges are payable in accordance with the regulations applying to the particular industry.

### **3.3 Specified area rates under the LG Act**

Section 6.37 of the LG Act allows a local government to *“impose a specified area rate on rateable land within a portion of its district for the purpose of meeting the cost of the provision by it of a specific work, service or facility if the local government considers that the rate payers or residents within that area –*

- (a) have benefited or will benefit from; or*
- (b) have access to or will have access to; or*
- (c) have contributed or will contribute to the need for,*

*that work, service or facility.*

The rates collected through section 6.37 must be used for the purpose for which the rate is imposed in that financial year or placed in a reserve account established under section 6.11 for that purpose. The funds raised from the rate must be used by the local government to meet the cost of providing the specific work, service or facility for which the rate was imposed or to repay money borrowed and any interest for the work, service or facility.

Specified area rates can be applied to fund biosecurity issues if implemented in accordance with section 6.37 of the LG Act.

## **4. CRITERIA USED TO DETERMINE MOST APPROPRIATE FUNDING MECHANISM**

Three criteria are used when determining the most appropriate mechanism for funding a particular biosecurity issue. This section provides an overview of the three criteria.

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Figure 1 shows the decision tree that guides the decision-making process for determining the most appropriate funding mechanism.

## **4.1 Origin of the concern relating to the biosecurity issue**

The four funding mechanisms outlined in this policy can be categorised into geographically-based schemes and industry-based schemes. The declared pest rate and the specified area rate are geographically-based schemes. The IFS and the APC scheme of charges for services are industry-based schemes.

The associated expenditure mechanism (e.g. RBGs, local governments, IFSs and APC and associated producers' committees) should be linked to whether the concern relating to the biosecurity issue originated from the community based in a geographical area or from an agricultural industry.

If the concern relating to the biosecurity issue originates from the community within an area, the most appropriate funding mechanisms would be either the declared pest rate, expended through RBGs established in the relevant area, or a specified area rate imposed by the relevant local governments.

If the origin of the concern relating to the biosecurity issue is an agricultural industry, the most appropriate funding mechanisms would be either an IFS or the APC scheme.

## **4.2 Impact of biosecurity issue**

This criterion considers the extent of the impact of the biosecurity issue that is whether the biosecurity issue impacts on only one sector<sup>3</sup> (e.g. economy, environment, or community amenity) or on multiple sectors.

A biosecurity issue that impacts on multiple sectors is suited to the declared pest rate or specified area rates frameworks, while a biosecurity issue with impacts only, or largely, on an agricultural industry or industries is suited to the IFS or APC system.

The APC scheme is considered suitable if there are existing APC producers committees that are responsible for all of the produce or agricultural industries that are impacted by the biosecurity issue. Otherwise, the IFS will be more appropriate.

If APC producer committees only exist for some of the produce or agricultural industries impacted by the biosecurity issue, the APC scheme may still be considered suitable, particularly if the biosecurity issue impact significantly on the produce or industries. DAFWA will explore options to establish other producer committees as required. The industry funding scheme option may also be considered concurrently with the APC scheme option for the biosecurity issue.

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<sup>3</sup> Sector is defined as either the economy sector, environment sector or community amenity sector as a whole. Sector does not mean sections within or parts of the agricultural industry.

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### **4.3 Implementation scale of the program to address biosecurity issue**

The implementation of a program to address the biosecurity issue can span from part of one local government authority to multiple local government authorities. This criterion considers the implementation scale of the program to address a biosecurity issue.

Where the implementation of the program spans multiple local government authorities, the declared pest rate should be considered. The declared pest rate determination and collection mechanisms can apply across multiple local government authorities, or even the whole of Western Australia.

Where the implementation of a program to address a biosecurity issue spans one or only part of one local government authority, the specified area rate is a suitable funding framework. The specified area rate could be applied by individual local government authorities where the residents in that area have direct benefit from the implementation of the program or project to address a biosecurity issue.

## **5. APPLICATION OF POLICY**

When a need for funding to address a biosecurity issue is raised with the department, the criteria in section 4 and the decision tree in Figure 1 will be used to guide a decision on which is the most appropriate funding mechanism for the issue. The implementation of this mechanism will be further explored and developed with the group that raised the concern and other relevant stakeholders before providing the recommendation to the Minister, if appropriate.

The authority to impose specified area rates rests with the individual local government. DAFWA will liaise with the relevant local government authority or authorities if this mechanism is determined as the most appropriate funding mechanism.

An example below is used to demonstrate the use of the criteria and decision tree.

### **5.1 Narrow leaf cotton bush**

Narrow leaf cotton bush ("cotton bush") is a declared pest under section 22(2) of the BAM Act and categorised under regulation 7 of the Biosecurity and Agriculture Regulations 2013 in the C3 (management) control category and exempt keeping category for local government areas in south-west Western Australia. The species is a widespread and established weed in these areas.

Cotton bush has been identified as a priority species for three biosecurity groups operating in south-west Western Australia – Peel-Harvey Biosecurity Group, Leschenault Biosecurity Group and Blackwood Biosecurity Inc. These groups are formed and operate based on geographical regions. Each of the groups spans multiple local government authorities.

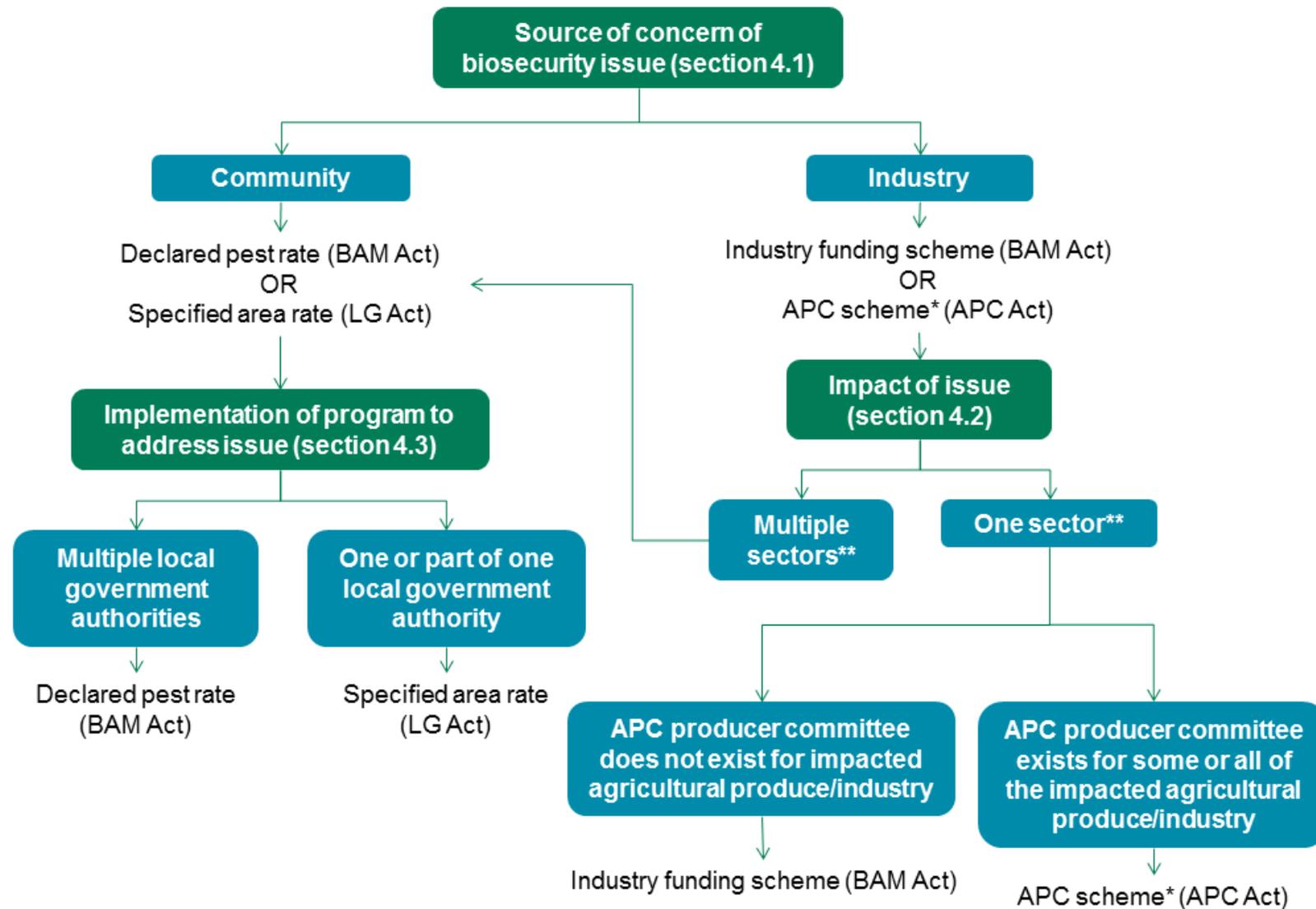
The origin of the concern is from the community and the implementation of the program to manage cotton bush will span multiple local government authorities. The most

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suitable funding mechanism according to this policy for the control of cotton bush in south-west Western Australia is therefore a declared pest rate.

The Department of Agriculture and Food Western Australia (DAFWA) is currently working with these biosecurity groups to meet the criteria for recognition under section 169 of the BAM Act. In consultation and agreement with the groups, DAFWA will also assist and facilitate the Minister's determination of a declared pest rate in the area, if appropriate and after consultation with landowners in the area.

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\* The APC scheme can only be considered if the biosecurity issue impacts on *agricultural industry* as defined in the APC Act.

\*\* Sector is defined as either the economy, environment or community amenity as a whole. Sector does not mean sections within or parts of the agricultural industry.

Figure 1: Decision tree to guide the decision on the most appropriate funding mechanism for a biosecurity issue

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## ABBREVIATIONS

AARPA	<i>Agriculture and Related Resource Protection Act 1976</i>
APC Act	<i>Agricultural Produce Commission Act 1988</i>
APC scheme	Charges for services under the APC Act outlined in section 3.2
BAM Act	<i>Biosecurity and Agriculture Management Act 2007</i>
DAFWA	Department of Agriculture and Food Western Australia
DPA	Declared Pest Account
IFS	Industry Funding Schemes
IMC	Industry Funding Scheme Management Committee
LG Act	<i>Local Government Act 1995</i>
RBGs	Recognised Biosecurity Groups

## RELEVANT INFORMATION

Invasive Species Guidance Statement No. 1 (ISGS01): *Recognition of Biosecurity Groups*

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# ATTACHMENT 1: EXTRACTS OF SECTIONS OF LEGISLATION RELEVANT TO THE FOUR FUNDING MECHANISMS

## A. Land-based rating under the BAM Act

### Part 6 — Financial provisions

#### Division 1 — Declared Pest Account

##### Subdivision 1 — General

#### 129. Terms used

In this Division —

**Commissioner** has the meaning given to that term by the *Taxation Administration Act 2003*;

**operating account** means an agency special purpose account established and maintained under the *Financial Management Act 2006* section 16;

**owner** has the meaning given to that term in the *Land Tax Assessment Act 2002*, and includes a person taken to be an owner of land under section 8 of that Act;

**rate** means a rate determined in relation to land under section 130(1);

**rate determination** means a determination under section 130(1);

**rates amount** means an amount payable by way of rates under this Division.

##### Subdivision 2 — Rates imposed on land

#### 130. Determination of rate

- (1) The Minister may, by notice published in the *Gazette*, determine a rate that is chargeable for a financial year on land in a prescribed area.
- (2) The rate is for the purposes of the Declared Pest Account.
- (3) A rate determination must specify the land or the class of land on which the rate is chargeable.
- (4) Different rates may be determined in respect of different land and different classes of land.
- (5) The Minister may, in the exercise of the power under subsection (1), exempt land from the application of the rate.
- (6) To the extent (if any) that a rate is not a tax imposed by the *Biosecurity and Agriculture Management Rates and Charges Act 2007*, this Act imposes the rate.
- (7) The *Interpretation Act 1984* section 42 applies to a rate determination as if the determination were a regulation.

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**131. Procedure for making rate determination**

Before determining a rate chargeable on land, the Minister must consult in accordance with the regulations with the owners of the land, and other prescribed persons (if any).

**132. Minimum and maximum rates**

- (1) The Minister may determine a flat rate, or an ad valorem rate, chargeable on land.
- (2) A flat rate must not exceed the prescribed amount.
- (3) The rates amount payable in relation to a financial year when calculated by applying the ad valorem rate to the amount equal to the unimproved value of the land must not exceed —
  - (a) in the case of land held under a pastoral lease, an amount equal to 10% of the unimproved value of the land according to the valuation in force under the *Valuation of Land Act 1978* at midnight on 30 June in the previous financial year; and
  - (b) in any other case, an amount equal to 2% of the unimproved value of the land according to the valuation in force under the *Valuation of Land Act 1978* at midnight on 30 June in the previous financial year.
- (4) The Minister may determine the minimum rates amount payable and the maximum rates amount payable, irrespective of the amount payable when calculated by applying the ad valorem rate.

**133. Rates amounts**

- (1) If a flat rate is determined in respect of land, the rates amount payable is the amount determined as the rate.
- (2) If an ad valorem rate is determined in respect of land, the rates amount payable in relation to a financial year is, subject to section 132(4), the amount calculated by applying the rate to the amount equal to the unimproved value of the land according to the valuation in force under the *Valuation of Land Act 1978* at midnight on 30 June in the previous financial year.
- (3) Rates amounts are payable to the Commissioner.

**134. Multiple rating**

- (1) In this section —

***Government agreement*** has the meaning given to that term by the *Government Agreements Act 1979*.
- (2) If —
  - (a) under the *Mining Act 1978* or a Government agreement a person holds in respect of land a mining tenement within the meaning given to that term by that Act or agreement; or

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- (b) in accordance with the *Mining Act 1978* a person holds, occupies, uses or enjoys in respect of land a mining tenement within the meaning given to that term by the *Mining Act 1904*<sup>2</sup>; or
  - (c) under the *Petroleum and Geothermal Energy Resources Act 1967*<sup>3</sup> a person holds in respect of land a petroleum production licence or exploration permit,

the land the subject of that tenement, licence or permit may be the subject of a rate determination notwithstanding that the land may be the subject of a rate determination in the hands of the holder of another estate in that land.

**135. Application of *Taxation Administration Act 2003* and *Land Tax Assessment Act 2002***

- (1) In this section —  
*assessment notice* has the meaning given to that term by the *Taxation Administration Act 2003*.
- (2) The Commissioner does not have to issue an assessment notice under the *Taxation Administration Act 2003* section 23 if no tax is payable under an exemption under section 130(5).
- (3) The *Taxation Administration Act 2003* Part 6 and section 116(1) apply as if the references in that Part and that section to land tax were references to a rates amount.
- (4) The *Land Tax Assessment Act 2002* sections 6, 7, 8, 9, 12, 13 and 43 apply as if the references in those sections to —
  - (a) “land tax” were references to a rates amount; and
  - (b) “assessment year” were, in relation to a rates amount, a reference to the financial year for which the rates amount is, or is to be assessed; and
  - (c) “taxable land” were references to land in respect of which a rate is determined; and
  - (d) “land tax Act” were a reference to —
    - (i) this Division; or
    - (ii) the *Biosecurity and Agriculture Management Rates and Charges Act 2007*; or
    - (iii) the *Taxation Administration Act 2003*, to the extent that it relates to rateable amounts;and
  - (e) “this Act” were references to this Division.

**136. Postponement of rates payable by pensioners**

- (1) In this section —  
*pensioner* means a person who holds a pensioner concession card;

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***pensioner concession card*** means a currently valid card, known by that name, issued on behalf of the Commonwealth to the holder or, where a card of another kind is prescribed for the purposes of this definition, that other card.

- (2) Subject to subsection (5), a person who is a pensioner may claim to be exempt from liability for the payment of a rates amount in respect of land of which the person is in actual occupation as owner.
- (3) On receipt of the claim the Commissioner must postpone the payment of the rates amount to which the claim relates until the person ceases to own the land or dies, whichever first occurs, or until the person ceases to be entitled to be exempt from liability for payment of rates amounts under this Division.
- (4) Where the payment of a rates amount is postponed under subsection (3), nothing in the *Limitation Act 2005* prevents the Commissioner from recovering any rates amount which but for this subsection the Commissioner would have been prevented from so doing by that Act.
- (5) A person is not entitled to be exempt under this section from liability for payment of a rates amount in respect of any land if —
  - (a) the land is occupied by that person and a person who is neither a pensioner nor a dependant of the first-mentioned person; or
  - (b) the land is partly owned by that person and partly owned by a person who is neither a pensioner nor a dependant of the first-mentioned person.

### **Subdivision 3 — Establishment and operation of Declared Pest Account**

#### **137. Declared Pest Account**

- (1) An account called the Declared Pest Account must be established —
  - (a) as an operating account; or
  - (b) as part of an operating account nominated by the Director General.
- (2) The following money must be credited to the Declared Pest Account —
  - (a) rates collected under Subdivision 2;
  - (b) unpaid rates recovered by the Commissioner under the *Taxation Administration Act 2003* section 60;
  - (c) amounts appropriated under section 139 in connection with a rate determination made for the purposes of the Account;
  - (d) the proceeds of the sale of any capital asset purchased using money from the Account;
  - (e) any other amounts lawfully received by the Director General for the purposes of the Account.

#### **138. Use of funds in Declared Pest Account**

Money may be debited to the Declared Pest Account for the following purposes —

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- (a) to carry out measures to control declared pests on and in relation to areas for which the rates were collected under Division 1;
  - (b) to promote public awareness of the measures being taken or required to be taken to control declared pests;
  - (c) to purchase capital assets required in connection with the purposes mentioned in paragraphs (a) and (b);
  - (d) the payment of the costs of assessing and collecting rates under Subdivision 2 as determined by the Commissioner;
  - (e) the credit of amounts under section 139(3);
  - (f) for any purpose authorised under this Act or another written law.

*[Section 138 amended by No. 46 of 2010 s. 68.]*

**139. Appropriations against Consolidated Account**

- (1) For each financial year for which a rate is determined for the purposes of the Declared Pest Account, an amount equal to the rates amounts collected by the Commissioner under the rate determination is charged to the Consolidated Account, which this subsection appropriates accordingly.
- (2) Despite any other law, for the purposes of this section the amount of rates treated as having been collected by the Commissioner in a financial year is to be the amount of the rates which becomes payable in that financial year.
- (3) If the Commissioner refunds under the *Taxation Administration Act 2003* section 54 an amount collected by the Commissioner under this Division, an equivalent amount must be credited to the Consolidated Account from the Declared Pest Account.

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**B. Industry-funding schemes under the BAM Act**

**Division 2 — Industry funding schemes**

**140. Terms used**

In this Division —

*management committee* means a management committee established by regulations made under section 141(1)(b);

*prescribed account* means an account established by regulations made under section 141(1)(a).

**141. Establishment of accounts, management committees and schemes**

- (1) The Governor may make regulations establishing —
  - (a) an account for a prescribed sector of agricultural activity; and
  - (b) a management committee for the account consisting of either or both of the following —
    - (i) producers from that sector of agricultural activity;
    - (ii) persons who have a financial interest in that sector of agricultural activity;and
  - (c) a scheme requiring or facilitating the payment of contributions to the account.
- (2) The regulations may relate to an agricultural activity in the whole of the State or in part of the State.
- (3) Before the regulations are made, the Minister must consult with —
  - (a) each organisation (if any) that is prescribed for the purposes of this section; and
  - (b) any other association, union or body that in the opinion of the Minister is representative of the interests of producers from the sector of agricultural activity for which the account is to be established; and
  - (c) such producers from the sector of agricultural activity for which the account is to be established as the Minister thinks fit.

**142. Constitution and administration of prescribed accounts**

- (1) A prescribed account consists of —
  - (a) contributions paid or collected in accordance with the regulations for the purposes of the prescribed account; and
  - (b) the proceeds of the sale of any capital assets purchased using money from the prescribed account; and
  - (c) income of the prescribed account from investment; and
  - (d) any other money lawfully paid into the prescribed account.

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- (2) A prescribed account must be —
- (a) identified as an account for the purpose for which it is established; and
  - (b) established —
    - (i) as an operating account; or
    - (ii) as part of an operating account nominated by the Director General.

**143. Management committee**

- (1) A management committee must —
- (a) advise the Director General on the administration of the prescribed account; and
  - (b) exercise such other functions (if any) as are conferred on the management committee under the regulations.
- (2) The regulations establishing a management committee may make provision as to the constitution and procedures of the management committee.
- (3) Except as provided under this Act, a management committee may determine its own procedures.

**144. Contributions to account — prescribed scheme**

- (1) A scheme established by regulations made under section 141(1)(c) may provide for —
- (a) producers from the sector of agricultural activity for which the account was established to make contributions to the account in the manner and on the basis prescribed; and
  - (b) the manner of collection of contributions to the account.
- (2) The scheme may provide for the circumstances in which contributions to the account will be refunded.
- (3) The scheme may allow for the costs of collecting contributions to be deducted from or paid out of those contributions.
- (4) If the regulations provide for the expiry of the regulations on a fixed day, the regulations may make provisions of a savings or transitional nature that are to apply on the expiry of regulations.

**145. Application of prescribed account**

- (1) A prescribed account may be applied for —
- (a) any of the following purposes, if that purpose is set out in the regulations establishing the account —
    - (i) the payment of compensation to any person who has suffered loss, or incurred costs or expenses, of a prescribed kind as a result of an animal, agricultural product or other thing being infected or infested with a declared pest specified by the

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regulations establishing the account or as a result of actions or measures taken under this Act to control that declared pest;

- (ii) the costs and expenses of destroying animals, agricultural products or things under this Act because they are infected or infested with a declared pest prescribed by the regulations establishing the account or as a result of other actions or measures taken under this Act to control that declared pest;
- (iii) the costs of programs and other measures approved by the management committee for the control of, or for the advancement and improvement of control measures for, a declared pest prescribed by the regulations establishing the account;
- (iv) the purchase of capital assets required in connection with the purposes mentioned in this paragraph;

and

- (b) the refund of contributions in prescribed circumstances; and
  - (c) the payment of any amount required to be paid under section 146(3) and interest on that amount; and
  - (d) the repayment of an amount charged to the Consolidated Account and used for a purpose prescribed by the regulations establishing the account; and
  - (e) the costs and expenses of administering the account.
- (2) Compensation and costs and expenses must not be paid under subsection (1)(a)(i) or (ii) except to a person who has paid contributions under the scheme in accordance with the regulations.
  - (3) The amounts of compensation and costs and expenses referred to in subsection (1)(a)(i) and (ii) must be determined in accordance with the regulations.
  - (4) The amount of costs and expenses payable under subsection (1)(a)(iii) and (e) must be approved by the management committee.
  - (5) The amount referred to in subsection (1)(d) may be applied as set out in that paragraph even though the amount was charged to the Consolidated Account before the regulations establishing the account were made.
  - (6) The regulations may exclude a person from receiving compensation and costs and expenses from the prescribed account in any of the following circumstances —
    - (a) if the person is, according to the regulations, in default;
    - (b) if the person has been convicted of an offence of failing to comply with a requirement under a written law to report the presence or suspected presence of a prescribed declared pest or to control a prescribed declared pest;

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- (c) if a like benefit is payable under another prescribed written law;
  - (d) in other prescribed circumstances.

**146. Treasurer may make advances to a prescribed account in event of a deficiency**

- (1) Where the Treasurer is of the opinion that the money standing to the credit of a prescribed account is not sufficient to meet payments required in accordance with a scheme set out in the regulations, the Treasurer may advance to the prescribed account money sufficient for the time being to make up the deficiency.
- (2) The Treasurer may impose conditions on a payment under subsection (1), including conditions on the payment of interest, as the Treasurer considers appropriate.
- (3) Money paid under subsection (1) must be repaid to the Treasurer and charged to the relevant prescribed account by the Director General when money is available to the account to make repayment.
- (4) Money paid under subsection (1), so long as it is not repaid under subsection (3), is a charge on the relevant prescribed account.

**147. Review of regulations**

- (1) The Minister must carry out a review of the operation and effectiveness of any regulations made for the purposes of establishing a prescribed account as soon as is practicable after —
  - (a) the fifth anniversary of the day on which the regulations commence, or such earlier day as is prescribed in the regulations; and
  - (b) every fifth anniversary of that day, or such earlier day as is prescribed in the regulations.
- (2) The Minister must prepare a report based on the review and must cause it to be laid before each House of Parliament as soon as is practicable after the report is prepared, and in any event not later than 12 months after the requirement for the review arose.

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**C. Charges for services under the APC Act**

**12. Functions of producers' committee**

- (1) Subject to any direction given by the Commission and to this section a producers' committee may provide any one or more of the following services as are prescribed in relation to the agricultural produce in relation to which it is established —
- (a) advertise and promote the agricultural produce;
  - (b) control or develop the means of controlling pests and diseases if there is a likelihood of those pests or diseases affecting the quality or volume of output of the agricultural produce;
  - (c) conduct research in relation to any matter, if in the opinion of the producers' committee that research is of advantage to producers of the agricultural produce;
  - (d) conduct educational or instructional programmes relating to the production of agricultural produce;
  - (e) develop and expand markets for the agricultural produce in Western Australia and elsewhere;
  - (f) establish a voluntary insurance scheme for the benefit of producers of the agricultural produce including insurance relating to crops;
  - (g) undertake and provide market forecasting for the agricultural produce;
  - (h) establish systems of inspection for the agricultural produce for the purpose of quality control or pest and disease control;
  - (i) formulate schemes for declaring producers of the agricultural produce to be accredited producers;
  - (j) establish systems to facilitate inspection of grading, packaging and storage of the agricultural produce including weight and uniformity (including uniformity of ripeness) within packages;
  - (k) support, with or without grant of financial aid, and whether or not initiated by the committee or the Commission, any scheme or activity which in the committee's opinion is capable of assisting in the promotion or sale of the agricultural produce;
  - (l) provide such other services for the agricultural produce as may be prescribed;
  - (la) establish a compensation scheme for the benefit of producers whose agricultural produce is destroyed as a result of action taken to control a pest or disease of that produce;
  - (m) arrange for the provision of all or any of the services or the exercise of any of the functions referred to in paragraphs (a) to (la) in whole or in part by another person or organization or in conjunction with the Commission or any other person or organization.

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- (2) For the purposes of carrying out its functions under this Act a producers' committee may, with the approval of the Commission, employ or engage such officers, employees and other persons as are necessary.
  - (3) A producers' committee shall not provide any service or recommend the imposition of any charge for any service or proposed service additional to the service or services for which the producers' committee was established unless the producers' committee has conducted a poll of the producers concerned and the poll is in favour of the proposal.
  - (4) The costs of any poll shall be charged to the general funds of the producers' committee.

*[Section 12 amended by No. 73 of 1994 s. 4; No. 49 of 1996 s. 64; No. 20 of 2000 s. 15, 28, 30 and 31.]*

#### **14. Imposition of charges for services**

- (1) The Commission, at the request and with the advice of a producers' committee, may determine the cost or estimated cost of providing a service which the producers' committee is authorised to provide and, with the approval of the Minister, may impose a charge for the provision of that service.
- (2) The Commission is to determine the amount of a charge imposed under this section having regard to the cost or estimated cost of providing the service and any other relevant factors.
- (3) Notice of a charge imposed under this section is to be published, and the charge is payable, in accordance with the regulations.

*[Section 14 inserted by No. 20 of 2000 s. 17.]*

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**D. Specified area rate under the LG Act**

**6.37. Specified area rates**

- (1) A local government may impose a specified area rate on rateable land within a portion of its district for the purpose of meeting the cost of the provision by it of a specific work, service or facility if the local government considers that the ratepayers or residents within that area —
  - (a) have benefited or will benefit from; or
  - (b) have access to or will have access to; or
  - (c) have contributed or will contribute to the need for,that work, service or facility.
- (2) A local government is required to —
  - (a) use the money from a specified area rate for the purpose for which the rate is imposed in the financial year in which the rate is imposed; or
  - (b) to place it in a reserve account established under section 6.11 for that purpose.
- (3) Where money has been placed in a reserve account under subsection (2)(b), the local government is not to —
  - (a) change the purpose of the reserve account; or
  - (b) use the money in the reserve account for a purpose other than the service for which the specified area rate was imposed,and section 6.11(2), (3) and (4) do not apply to such a reserve account.
- (4) A local government may only use the money raised from a specified area rate —
  - (a) to meet the cost of providing the specific work, service or facility for which the rate was imposed; or
  - (b) to repay money borrowed for anything referred to in paragraph (a) and interest on that money.
- (5) If a local government receives more money than it requires from a specified area rate on any land or if the money received from the rate is no longer required for the work, service or facility the local government —
  - (a) may, and if so requested by the owner of the land is required to, make a refund to that owner which is proportionate to the contributions received by the local government; or
  - (b) is required to allow a credit of an amount proportionate to the contribution received by the local government in relation to the land on which the rate was imposed against future liabilities for rates or service charges in respect of that land.
- (6) Where —

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- (a) before the coming into operation of the *Local Government Amendment Act 2012* Part 2 Division 5, a specified area rate was imposed, or purportedly imposed, under this section by a local government for the purpose of the provision of underground electricity; and
  - (b) the underground electricity was not, or will not, be provided, or not wholly provided, by the local government,

the rate is, and is taken always to have been, as validly imposed under this section as it would have been if, at the time of the imposition of the rate, the local government were to provide the underground electricity.

*[Section 6.37 amended by No. 2 of 2012 s. 20.]*

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