



Province of Alberta

# **AGRICULTURAL PESTS ACT**

Revised Statutes of Alberta 2000  
Chapter A-8

Current as of November 1, 2014

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2002 c14 s4 adds s2.1.

### Regulations

The following is a list of the regulations made under the *Agricultural Pests Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Agricultural Pests Act</b>		
Pest and Nuisance Control .....	184/2001 .....	201/2001, 150/2003, 160/2006, 35/2007, 56/2007, 64/2008, 68/2008, 325/2009, 101/2011, 126/2016

# **AGRICULTURAL PESTS ACT**

## Chapter A-8

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Interpretation**

**1(1)** In this Act,

- (a) “Court” means the Court of Queen’s Bench;
- (b) “Crown” means the Crown in right of Alberta;
- (c) “highway” means a highway as defined in the *Traffic Safety Act*;
- (d) “inspector” means a person appointed as an inspector, including an inspector by virtue of office, under section 9;
- (e) “land” includes the land down to the low water mark of a stream, lake or other body of water that is contiguous to or located on land;
- (f) “livestock” means cattle, sheep, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, goats and other captive ruminants, swine, horses and poultry;
- (g) “local authority” means
  - (i) the council of a city, town, village, summer village or municipal district,
  - (ii) the Minister responsible for the *Municipal Government Act*, in the case of an improvement district, or
  - (iii) the Minister responsible for the *Special Areas Act*, in the case of a special area;
- (h) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (i) “municipal secretary” means
  - (i) in an improvement district, the Minister responsible for the *Municipal Government Act* or an officer of that Minister’s Department designated by that Minister,
  - (ii) in a special area, the Minister responsible for the *Special Areas Act* or an officer of that Minister’s Department designated by that Minister, or
  - (iii) in any other municipality, the designated officer who has the duties of secretary and if there is no such designated officer, the chief administrative officer;
- (j) “nuisance” means an animal, bird, insect, plant or disease declared to be a nuisance under section 2;

- (k) “occupant” means a person occupying or exercising control or having the right to occupy or exercise control over land or property;
- (l) “owner” means
  - (i) in the case of land, a person who is registered under the *Land Titles Act* as the owner of land, or
  - (ii) in the case of personal property, a person who is in lawful possession of it or who has the right to exercise control over it;
- (m) “pest” means an animal, bird, insect, plant or disease declared to be a pest under section 2;
- (n) “property” means personal property and includes vegetation, but does not include livestock.

(2) A reference in this Act to a bylaw includes, when appropriate, an order of the Minister responsible for the *Municipal Government Act* and of the Minister responsible for the *Special Areas Act*.

RSA 2000 cA-8 s1;RSA 2000 cT-6 s192;2003 c26 s19;  
2011 c12 s33

#### **Declaration of pest or nuisance**

**2(1)** Subject to subsection (2), if the Minister considers that an animal, bird, insect, plant or disease is destroying or harming or is likely to destroy or harm any land, livestock or property in all or part of Alberta, the Minister may, by regulation, declare the animal, bird, insect, plant or disease to be

- (a) a pest, or
- (b) a nuisance,

throughout Alberta or in part of Alberta.

(2) In subsection (1), “animal” and “bird” do not include

- (a) the following as defined in the *Wildlife Act*:
  - (i) big game;
  - (ii) a bird of prey;
  - (iii) a game bird;
  - (iv) an endangered species,

or

- (b) a diversified livestock animal within the meaning of the *Livestock Industry Diversification Act* that is a cervid.

RSA 2000 cA-8 s2;2011 c12 s33

#### **Powers of Minister**

##### **3(1)** The Minister may

- (a) investigate any matter,
- (b) conduct surveys,
- (c) establish programs, or
- (d) enter into agreements with any person, local authority, agency or government,

for the purpose of preventing the establishment of, controlling or destroying a pest or nuisance and preventing or reducing damage caused by a pest or nuisance.

- (2)** The Minister may exempt any land from the operation of all or part of this Act.

1984 cA-8.1 s3

#### **Delegation of Minister's powers**

##### **4(1)** The Minister may in writing delegate to

- (a) an employee of the Government of Alberta,
- (b) an employee of the Government of Canada,
- (c) a local authority, or
- (d) a member of a local authority

a power, duty or function conferred on the Minister by this Act and the regulations, except the power to make regulations.

- (2)** A power, duty or function delegated to a local authority or a member of a local authority may be exercised or performed only within the municipality represented by the local authority.

1984 cA-8.1 s4

#### **Duty of individual**

**5(1)** An owner or occupant of land may prevent the establishment of, control or destroy a nuisance on land the owner owns or occupier occupies.

- (2)** An owner or occupant of land or property or the owner or person in control of livestock shall take active measures to

- (a) prevent the establishment of pests on or in the land, property or livestock unless otherwise authorized by the Minister,
- (b) control or destroy all pests on or in the land, property or livestock unless otherwise authorized by the Minister, and
- (c) destroy any crop, vegetation or other matter that contributes or may contribute to the maintenance or spread of a pest on or in the land, property or livestock.

1984 cA-8.1 s5

**Duty of local authority**

**6** A local authority of a municipality shall take active measures

- (a) to prevent the establishment of, or
- (b) to control or destroy,

pests in the municipality.

1984 cA-8.1 s6

**Occupant of a highway**

**7** A local authority may, with respect to a highway that is subject to the direction, management and control of the local authority, by bylaw provide that an owner or occupant of land is, for the purposes of this Act, the occupant of that portion of a highway that lies between the boundary of the land the owner owns or occupier occupies and the centre line of the highway.

1984 cA-8.1 s7

**Applicable Acts**

**8** A person or local authority preventing the establishment of, controlling or destroying a pest or nuisance shall do so in accordance with

- (a) this Act and the regulations,
- (b) if applicable, the *Wildlife Act* and the regulations under it, and
- (c) if applicable, the *Environmental Protection and Enhancement Act* and the regulations under it.

1984 cA-8.1 s8;1992 cE-13.3 s246(1);1996 c33 s75

**Inspectors**

**9(1)** Inspectors may be appointed by a local authority or by the Minister to carry out this Act and the regulations.

(2) An agricultural fieldman under the *Agricultural Service Board Act* is by virtue of that office an inspector under this Act.

1984 cA-8.1 s9

#### **Appointment of inspectors by local authority**

**10(1)** The local authority of a municipality shall appoint a sufficient number of inspectors to carry out this Act and the regulations within the municipality.

(2) Two or more local authorities may

- (a) jointly appoint inspectors to act within the municipalities represented by the local authorities, and
- (b) enter into an agreement for the sharing of the costs of the inspectors appointed jointly.

1984 cA-8.1 s10

#### **Failure to appoint inspectors or properly enforce Act**

**11(1)** The Minister may, if

- (a) a local authority does not appoint an inspector, or
- (b) in the opinion of the Minister, an inspector appointed by a local authority is not properly enforcing this Act,

after serving notice on the local authority, cause inspectors appointed by the Minister to carry out this Act and the regulations in a municipality.

(2) If an inspector appointed by the Minister is requested to carry out this Act and the regulations in a municipality

- (a) pursuant to subsection (1)(a), the inspector appointed by the Minister shall continue to act until the local authority appoints an inspector in accordance with section 10(1), or
- (b) pursuant to subsection (1)(b), the appointment by the local authority terminates and that local authority shall not make further appointments until the Minister serves notice on the local authority that the inspector appointed by the Minister is no longer acting.

(3) Salary paid and expenses incurred by the Crown under this section

- (a) shall be paid by the local authority on demand,
- (b) are recoverable by the Minister as if they were a debt due the Crown, and



- (c) may be recovered by the Minister by action or by withholding the amount of the salary and expenses from a grant, rent or other money that would otherwise be payable by the Crown to the local authority.

1984 cA-8.1 s11

**Notice**

**12(1)** When an inspector is of the opinion that land, property or livestock contains or is likely to contain a pest or should be protected against a pest, the inspector may issue a notice in writing directed to the owner or occupant of the land or property or to the owner or person in control of the livestock

- (a) setting out the legal description of the land affected or a description of the livestock affected and the legal description of the land on which the livestock are located,
- (b) naming the pest,
- (c) specifying the measures to be taken and the material, if any, to be used to prevent the establishment of or to control or destroy the pest, and
- (d) requiring the measures described in clause (c) to be taken within a specified period of time.

**(2)** If a notice is directed to a person other than the owner of land, property or livestock under subsection (1), the inspector shall also serve a copy of the notice on the owner.

**(3)** A notice issued under subsection (1) and a copy of the notice shall be in a form prescribed by the regulations and shall be served

- (a) by delivering it personally to the person who is intended to be served,
- (b) by leaving it with a person apparently over the age of 18 years at the dwelling place or place of business of the person who is intended to be served, or
- (c) by sending it by double registered mail or certified mail to the last known address of the person who is intended to be served as shown on the assessment roll of the municipality within which the land, property or livestock to which it relates is located.

**(4)** If, in the opinion of the inspector, service under subsection (3) cannot reasonably be effected, the inspector may post the notice or copy of the notice in a conspicuous place on the land, property or

livestock to which it relates, or on the private dwelling house of the person who is intended to be served.

1984 cA-8.1 s12

#### **Compliance with notice**

**13(1)** A person to whom a notice is directed under section 12(1) or a person on whom a copy of the notice is served under section 12(2) shall, subject to a right of appeal given by this Act, carry out the directions contained in the notice.

**(2)** If

- (a) a person fails to comply with a notice issued under section 12 and the appeal period has expired,
- (b) an inspector finds a pest on land, property or livestock in respect of which the inspector is not reasonably able to discover the owner, occupant or person in control, as the case may be, and determines that it is not practical to issue a notice under section 12, or
- (c) an inspector finds a pest on land, property or livestock that requires immediate measures to be taken in order to prevent its establishment or to control or destroy it,

the inspector may carry out the measures described in the notice or do any things necessary in the inspector's opinion and consistent with good agricultural practice to prevent the establishment of or to control or destroy the pest.

1984 cA-8.1 s13

#### **Appeal to local authority**

**14(1)** A person who

- (a) has an interest in land as an owner or occupant, or
- (b) has an interest in livestock as an owner or person in control of livestock

and feels personally aggrieved by a notice issued by an inspector under section 12 may appeal to the local authority of the municipality within which the land or livestock is located by filing a notice of appeal under this section.

**(2)** A notice of appeal shall be in writing and shall set out

- (a) the name and address of the appellant,
- (b) a copy of the notice in respect of which the appeal is being taken,

- (c) the legal description of the land affected or a description of the livestock affected and the legal description of the land on which the livestock were located, and
  - (d) the grounds for appeal.
- (3) A notice of appeal shall be served on the municipal secretary
- (a) by any of the methods set out in section 12(3), and
  - (b) within the time specified in the notice issued under section 12 for taking any measure, or within 10 days after service of the notice, whichever is less.
- (4) A notice of appeal shall be accompanied with a deposit in an amount set out in the regulations which shall be refunded if the appellant is successful in the appellant's appeal under this section or in a review under section 15.
- (5) A local authority shall at the beginning of each calendar year appoint a committee to hear and determine appeals under this section and on receipt of a notice of appeal a local authority shall refer the appeal to that committee.
- (6) Within 5 days after receipt of a notice of appeal, the committee shall hear and determine the appeal and the committee may confirm, rescind or vary the notice that was issued.
- (7) The municipal secretary shall, on determination of the appeal, send a copy of the decision together with the written reasons, if any, by double registered mail or certified mail to the appellant.

1984 cA-8.1 s14

**Review by Minister**

- 15(1)** An appellant who is dissatisfied with the decision of a committee under section 14 may, within 3 days after the appellant receives a copy of the decision, request a review of the decision or a part of it by the Minister.
- (2) The Minister may confirm, rescind or vary the decision of the committee.

1984 cA-8.1 s15

**Notice stayed pending appeal**

- 16** If a notice of appeal is served under section 14(3), the notice referred to in that section is stayed until
- (a) the appeal under that section is disposed of, or

- (b) a review under section 15 is conducted or the time for requesting the review under section 15 has expired without a review being requested.

1984 cA-8.1 s16

**Powers of inspector**

**17(1)** In this section, “land” does not include a private dwelling house.

**(2)** An inspector may, for the purpose of carrying out the inspector’s duties,

- (a) enter at any reasonable hour on any land to inspect the land or any buildings, property or livestock on the land,
- (b) on giving reasonable notice, direct the owner or person in control of livestock to assemble and confine the livestock for the purpose of an inspection, and
- (c) take specimens of a pest or nuisance and of any matter or thing that contains or is suspected of containing a pest or nuisance.

**(3)** An inspector shall carry the identification supplied to the inspector by the local authority or Minister appointing the inspector and shall show it on request to a person owning or in charge of anything affected by the inspector’s activities under this Act or the regulations.

1984 cA-8.1 s17

**Warrant to enter private dwelling house**

**18(1)** If it appears to a judge of the Provincial Court or a justice of the peace, on information laid before the judge or justice of the peace on oath, that there are reasonable and probable grounds for believing that a private dwelling house within the jurisdiction of the judge or justice of the peace contains a pest or nuisance, the judge or justice of the peace may issue a warrant authorizing a peace officer, with or without an inspector, to enter the private dwelling house, by force if necessary, for the purpose of searching for the pest or nuisance.

**(2)** Before entering a private dwelling house pursuant to this section, a peace officer shall take reasonable steps to find the owner or person in charge of it and shall endeavour to obtain the co-operation of that person.

**(3)** When a peace officer uses force in entering or searching a private dwelling house, the peace officer shall use no more force than is reasonably required under the circumstances.

RSA 2000 cA-8 s18;2008 c32 s3

**Recovery of inspector's expenses**

**19(1)** If expenses are incurred by an inspector pursuant to section 13(2), the municipal secretary of the municipality in which the expenses were incurred shall serve a statement of the expenses and a demand for payment on the owner of the land, property or livestock in respect of which the work was carried out.

**(2)** The statement of expenses and demand for payment shall be served by any of the methods set out in section 12(3).

**(3)** In the case of expenses incurred for work carried out to land, if the owner fails to pay the amount set out in the statement of expenses and to file a notice of dispute under subsection (4) within 30 days after receiving the statement of expenses and demand for payment, the municipal secretary shall add the amount of those expenses to the tax roll as a tax against the land to which the work was carried out and it shall be collected in the same manner as taxes.

**(4)** If the owner files with the municipal secretary a notice of dispute denying liability or disputing the amount of the expenses, the local authority is limited to recovering the expenses referred to in subsection (3) by an action against that owner.

**(5)** In the case of expenses incurred for work carried out to property or livestock, if the owner fails to pay the amount set out in the statement of expenses within 30 days after receiving the statement of expenses and demand for payment, the local authority is limited to recovering those expenses by an action against the owner of the property or livestock.

1984 cA-8.1 s19;1994 cM-26.1 s642(1)

**Stop order**

**20(1)** Notwithstanding anything in this Act, if the Minister is satisfied that a person

- (a) has contravened or is contravening this Act or the regulations, or
- (b) owns or operates anything that causes the maintenance or spread of a pest

the Minister may direct a stop order to that person in accordance with subsection (2).

**(2)** In a stop order, the Minister may order the person to whom it is directed to

- (a) cease the contravention specified in the order,

- (b) stop the operation of a plant, structure, equipment or thing specified in the order, either permanently or for a specified period, or
- (c) cease the contravention under clause (a) and stop the operation under clause (b),

and the stop order shall contain the Minister's reasons for making it.

**(3)** The Minister shall cause a copy of the stop order to be served on the person to whom it is directed, and that person, on receipt of the copy, shall comply with the stop order forthwith.

**(4)** A person who is served with the stop order under subsection (3) and fails to comply with the stop order forthwith is guilty of an offence and liable to a fine of not more than \$1000 for each day that the offence continues.

**(5)** If the person to whom a stop order is directed fails to comply with the stop order forthwith on service of a copy of it on the person, the Minister may apply to the Court for an order directing that person to comply with the stop order.

**(6)** If the person to whom the stop order is directed fails to comply with the Court order,

- (a) the failure to comply with the stop order may be dealt with by the Court as a civil contempt of the Court,
- (b) an inspector authorized by the Minister for the purpose and persons assisting the inspector may, without notice and without incurring liability, enter on any land and do any acts necessary to carry out the stop order,
- (c) a civil enforcement bailiff may assist the inspector and the inspector's assistants in enforcing their powers and duties under clause (b), and
- (d) the Minister may recover by action any expenses incurred by the Crown in carrying out the stop order from the person to whom the stop order was directed.

**(7)** The Minister may

- (a) amend a stop order if the Minister considers it advisable in the circumstances to do so, or
- (b) revoke a stop order

and shall notify accordingly the person to whom the stop order was directed.

**(8)** Service of the stop order, Court order and notification under subsection (7) shall be effected by any of the methods set out in section 12(3).

RSA 2000 cA-8 s20;2009 c53 s12

### **Regulations**

**21** The Minister may make regulations

- (a) respecting qualifications of inspectors;
- (b) respecting the content and use of forms;
- (c) respecting the issuance of permits authorizing the keeping of any pest or nuisance and prescribing the conditions on which it may be kept;
- (d) permitting, prohibiting and otherwise governing the planting, growing, handling, sale, transportation and disposition of potatoes in all or any part of Alberta;
- (e) authorizing an inspector to order the disposition or destruction of potatoes or other matter or to do any other thing to prevent the spread or to control bacterial ring rot;
- (f) concerning the manner in which potatoes that contain or may contain bacterial ring rot are to be handled, transported and disposed of, including the manner of packaging and labelling;
- (g) concerning the sterilization of any machinery, equipment and storehouse employed in the production, storage or distribution of potatoes;
- (h) authorizing an inspector to inspect potatoes at any point in Alberta or while the potatoes are being transported to determine whether they contain bacterial ring rot;
- (i) establishing areas in Alberta to which all or part of the regulations apply;
- (j) prohibiting and restricting the removal from any area or the movement in an area of any crop, vegetation, livestock, animal or other matter;
- (k) prohibiting or restricting the use of and governing the disposition or destruction of any crop, vegetation, livestock,

animal or other matter that may contribute to the spread of a pest or nuisance;

- (l) concerning the procedure to be followed in an area for controlling, destroying or preventing the establishment of a pest or nuisance;
- (m) naming, approving, distributing or arranging for or approving the distribution of any equipment, vehicle or device for or incidental to the control of a pest or nuisance, with or without conditions;
- (n) designating the area or areas in Alberta within which any poison, insecticide, compound, device or equipment may be used for the purposes of this Act and the regulations;
- (o) appointing persons to supervise the use of any poison, insecticide, compound, device or equipment for the purposes of this Act and the regulations;
- (p) defining and classifying any poison, insecticide, compound, device and equipment for the purposes of this Act and the regulations;
- (q) governing, prohibiting or restricting the use of any poison, insecticide, compound, device, vehicle, control technique or equipment for the purposes of this Act and the regulations;
- (r) respecting compliance with and enforcement of ALSA regional plans.

RSA 2000 cA-8 s21;2009 cA-26.8 s71

### Prohibitions

#### **22** No person shall

- (a) in any manner obstruct an inspector in the discharge of the inspector's duties,
- (b) wilfully fail to use or wilfully misuse any poison, insecticide, compound, device or equipment, or
- (c) for propagation purposes acquire, sell, distribute or use any seed, root, tuber or other vegetable material containing a pest.

1984 cA-8.1 s22

### Offences and penalties

**23** A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$5000 and in



default of payment to a term of imprisonment of not more than 60 days.

1984 cA-8.1 s23

**Act binds Crown**

**24** The Crown is bound by this Act.

1984 cA-8.1 s24







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