

# NORTHERN TERRITORY OF AUSTRALIA

## WEEDS MANAGEMENT ACT 2001

As in force at 9 January 2023

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 9 January 2023

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## WEEDS MANAGEMENT ACT 2001

**An Act to protect the Territory's economy, community, industry and environment from the adverse impact of weeds**

### **Part 1            Preliminary**

#### **1            Short title**

This Act may be cited as the *Weeds Management Act 2001*.

#### **2            Commencement**

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

#### **3            Purpose**

The purpose of this Act is:

- (a) to prevent the spread of weeds in, into and out of the Territory; and
- (ab) to minimise the impact of weeds in the Territory; and
- (ac) to ensure that the management of the spread of weeds is an integral component of land management; and
- (ad) to ensure that the management of the impact of weeds is an integral component of land management; and
- (b) to ensure there is community consultation in the creation of weed management plans; and
- (c) to ensure that there is community responsibility in implementing weed management plans.

#### **4            Definitions**

In this Act, unless the contrary intention appears:

***access permit*** means an access permit granted under section 22.

**approved** means approved by the Minister in writing.

**authorised person** means an authorised person appointed under section 25.

**cleaning area** means land declared to be a cleaning area under section 23.

**declared weed** means a plant declared to be a declared weed under section 7.

**designated weed disposal area** means an area declared under section 8.

**emergency weed management plan** means an emergency weed management plan approved under section 15.

**fodder** includes hay, chaff, meal, grain, silage and other plant-based animal feed preparations.

**land** includes buildings and water on land.

**officer** means a weed management officer appointed under section 24.

**permit** means a permit granted under section 28F.

**plant** means vegetation, whether living or dead, and includes:

- (a) trees, shrubs, bushes, grasses, sedges, herbs, ferns, algae and fungi; and
- (b) a part or product of a plant including flowers, fruit, seed, spore, cuttings, roots and rhizomes.

**potential weed** means a plant declared to be a potential weed under section 7.

**quarantine area** means land declared to be a quarantine area under section 21.

**remedial weed management plan** means a remedial weed management plan approved by the Minister or prepared by the Minister under section 14.

**road**, see section 5(1) of the *Control of Roads Act 1953*.

**soil** includes sand, gravel and rock.

**this Act** includes the Regulations.

**vehicle** means:

- (a) a conveyance or other device designed to be propelled or drawn by any means; or
- (b) a device that runs on wheels or tracks whether or not with motive power including agricultural machinery, equipment and implements, trailers and caravans.

**weed control notice** means a notice issued under section 15B.

**weed management plan** means a weed management plan approved under section 10.

*Note for section 4*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

## **5 Act binds Crown**

This Act binds the Crown in right of the Territory and, in so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

## **5A Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 5A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **6 Delegation**

- (1) The Minister may, in writing, delegate to a person, including the person from time to time holding, acting in or performing the duties of an office, designation or position, any of the Minister's powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

## **Part 2                    Declared and potential weeds**

### **7                    Declared weeds and potential weeds**

- (1) The Minister may, by *Gazette* notice, declare a plant to be a declared weed for the purposes of preventing the plant entering into, or managing the plant in, the Territory or a part of the Territory.
- (2) The Minister may, by *Gazette* notice, declare a plant to be a potential weed for the purposes of preventing the plant entering into, or managing the plant in, the Territory or a part of the Territory.
- (3) Before making a declaration under subsection (1) or (2) the Minister must consult with the Minister responsible for the administration of the *Territory Parks and Wildlife Conservation Act 1976* in relation to the proposed declaration.
- (4) A declaration under subsection (1) or (2) may classify a plant according to any of the following purposes:
  - (a) it is necessary to eradicate the plant;
  - (b) it is necessary to prevent the growing and spreading of the plant;
  - (c) it is necessary to prevent the introduction of the plant into the Territory or a part of the Territory;
  - (d) it is necessary to prevent the plant being spread by the actions of persons.
- (5) In making a declaration under this section, the Minister may use a nationally agreed classification scheme or code that the Minister considers appropriate.

### **8                    Designated weed disposal areas**

- (1) The Minister may, by notice in the *Gazette*, declare an area to be a designated weed disposal area where declared weeds or potential weeds may be disposed of.
- (2) Without limiting subsection (1), a declaration under that subsection may be made in respect of any of the following:
  - (a) a particular species of declared weed or potential weed;
  - (b) a particular classification of declared weed or potential weed under section 7(4);
  - (c) any class or group of declared weeds or potential weeds;



- (d) all declared weeds;
- (e) all potential weeds.

## **Part 3            Management of weeds**

### **Division 1        General duties**

#### **9                  General duties for potential weeds**

- (1) A person has a duty to:
  - (a) comply with any weed management plan for a potential weed; and
  - (b) ensure that, if the person uses a potential weed, the potential weed is used in accordance with any classification of the potential weed under section 7(4)(b), (c) or (d).
- (2) Except in accordance with a permit, a person has a duty to not do any of the following:
  - (a) propagate or scatter a potential weed;
  - (b) sell or offer to sell any equipment, device or any other thing that contains a potential weed;
  - (c) purchase or offer to purchase any equipment, device or any other thing that contains a potential weed;
  - (d) hire or offer for hire to another person any equipment, device or any other thing that contains a potential weed;
  - (e) hire or request to hire from another person any equipment, device or any other thing that contains a potential weed.
- (3) If a person transports a potential weed to a designated weed disposal area, the person has a duty to secure and contain the potential weed during the course of transporting it.

#### **9A                Offence to fail to comply with duty in respect of transport of potential weeds**

- (1) A person commits an offence if:
  - (a) the person intentionally transports a plant; and
  - (b) the plant is a potential weed and the person has knowledge of that circumstance; and

- (c) the person fails to secure and contain the potential weed during the course of transporting it.

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(c).

- (3) A person commits an offence if:

- (a) the person transports a potential weed; and  
(b) the person fails to secure or contain the potential weed during the course of transporting it.

Penalty: environmental offence level 4.

- (4) An offence against subsection (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

**9B Offence to fail to comply with duty in respect of equipment containing potential weeds**

- (1) A person commits an offence if:

- (a) the person intentionally hires from another person or buys any equipment, device or any other thing; and  
(b) the equipment, device or thing contains a potential weed and the person is reckless in relation to that circumstance; and  
(c) the person does not have a permit to use the potential weed for the conduct specified in paragraph (a).

Penalty: environmental offence level 3.

- (2) A person commits an offence if:

- (a) the person intentionally hires to another person or sells any equipment, device or any other thing; and  
(b) the equipment, device or thing contains a potential weed and the person is reckless in relation to that circumstance; and

- (c) the person does not have a permit to use the potential weed for the conduct specified in paragraph (a).

Penalty: environmental offence level 3.

- (3) Strict liability applies to subsections (1)(c) and (2)(c).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

### **9C General duties of owner or occupier of land for potential weeds**

- (1) An owner or occupier of land has a duty to:
- (a) take all reasonable measures to prevent the spread of a potential weed on the land; and
  - (b) take all reasonable measures to prevent a potential weed on the land spreading to other land.
- (2) If an owner or occupier of land destroys or disposes of a potential weed, the owner or occupier has a duty to destroy or dispose of the potential weed on the land or at a designated weed disposal area.

*Note for section 9C*

*If there is a potential weed present on land, the owner or occupier of the land must comply with any weed management plan for the potential weed (see section 9(1)(a)).*

### **9D Offence to fail to comply with duty in respect of potential weeds on land**

- (1) A person commits an offence if:
- (a) the person is an owner or occupier of land; and
  - (b) there exists on the land a potential weed and the person has knowledge of that circumstance; and
  - (c) the person fails to take reasonable measures to prevent the potential weed from spreading; and

- (d) the potential weed spreads on the land or to other land and the person is reckless in relation to that result.

Penalty: environmental offence level 3.

- (2) A person commits an offence if:

- (a) the person is an owner or occupier of land; and
- (b) there exists on the land a potential weed and the person has knowledge of that circumstance; and
- (c) the person destroys or disposes of the potential weed at a place; and
- (d) the place is not the land owned or occupied by the person where the potential weed exists or a designated weed disposal area and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 3.

- (3) Strict liability applies to subsections (1)(a) and (c) and (2)(a) and (c).

- (4) A person commits an offence if:

- (a) the person disposes of a potential weed at a place; and
- (b) the place is not land owned or occupied by the person where the potential weed exists or a designated weed disposal area.

Penalty: environmental offence level 4.

- (5) An offence against subsection (4) is an offence of strict liability.

- (6) It is a defence to a prosecution for an offence against subsection (1), (2) or (4) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (6)*

*The defendant has an evidential burden in relation to the matters in subsection (6) (see section 43BU of the Criminal Code).*

## **9E General duties for declared weeds**

- (1) A person has a duty to:

- (a) comply with any weed management plan for a declared weed; and

- (b) ensure that, if the person uses a declared weed, the declared weed is used in accordance with any classification of the declared weed under section 7(4)(b), (c) or (d).
- (2) Except in accordance with a permit, a person has a duty to not do any of the following:
- (a) bring, or be responsible for bringing, a declared weed into the Territory;
  - (b) propagate or scatter a declared weed;
  - (c) sell, offer to sell or provide a declared weed or any thing that contains or carries a declared weed;
  - (d) purchase or offer to purchase a declared weed or any thing that contains or carries a declared weed;
  - (e) hire or offer for hire to another person any equipment, device or any other thing that contains a declared weed;
  - (f) hire or request to hire from another person any equipment, device or any other thing that contains a declared weed;
  - (g) store, grow or use a declared weed or any thing that contains or carries a declared weed;
  - (h) subject to this section, transport or carry a declared weed or any thing that contains or carries a declared weed.
- (3) Despite subsection (2)(h), if a person has a plant that the person thinks may be a declared weed, the person may transport or carry the plant or any thing that contains or carries the plant to:
- (a) an officer for the purpose of having it identified; or
  - (b) a designated weed disposal area.
- (4) A plant or thing referred to in subsection (3) must be transported or carried in a sealed container.
- (5) If a person transports a declared weed in accordance with a permit, the person has a duty to secure and contain the weed during the course of transporting it.

**9F Offence to fail to comply with duty in respect of use of declared weeds**

- (1) A person commits an offence if:
- (a) the person intentionally does any of the following:
    - (i) brings a plant into the Territory;
    - (ii) propagates or scatters a plant;
    - (iii) sells, offers to sell or provides a plant or any thing that contains or carries a plant;
    - (iv) purchases or offers to purchase a plant or any thing that contains or carries a plant;
    - (v) hires or offers to hire to another person any equipment, device or any other thing that contains or carries a plant;
    - (vi) hires or requests to hire from another person any equipment, device or any other thing that contains or carries a plant;
    - (vii) stores, grows or uses a plant or thing that contains or carries a plant;
    - (viii) transports or carries on their person a plant or any thing that contains or carries a plant; and
  - (b) the plant specified in paragraph (a) is a declared weed and the person has knowledge of that circumstance; and
  - (c) the person does not have a permit to use the declared weed for the conduct specified in paragraph (a).

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(c).
- (3) It is a defence to a prosecution for an offence against subsection (1) constituted by transporting or carrying a declared weed or any thing that contains or carries a declared weed if the person was instructed to transport or carry the thing that contained or carried the declared weed by an officer.

*Note for subsection (3)*

*The defendant has an evidential burden in relation to the matters in subsection (3) (see section 43BU of the Criminal Code).*

**9G Offence to fail to comply with duty in respect of transport of declared weeds**

- (1) A person commits an offence if:
- (a) the person intentionally transports a plant; and
  - (b) the plant is a declared weed and the person has knowledge of that circumstance; and
  - (c) the person fails to secure and contain the declared weed during the course of transporting it.

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(c).

- (3) A person commits an offence if:

- (a) the person transports a declared weed; and
- (b) the person fails to secure or contain the declared weed during the course of transporting it.

Penalty: environmental offence level 4.

- (4) An offence against subsection (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

**9H Offence to spread declared weeds by animals or vehicles**

- (1) A person commits an offence if:
- (a) the person intentionally moves or drives an animal or vehicle; and
  - (b) the conduct specified in paragraph (a) is on a public road or on land the person does not own or occupy and the person has knowledge of that circumstance; and
  - (c) the animal or vehicle contains or carries a declared weed and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 3.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the person:
- (a) was instructed to move the animal or drive the vehicle by an officer or authorised person; or
  - (b) the animal or vehicle was cleaned in accordance with a weed management plan or in compliance with an order or direction of an officer or authorised person; or
  - (c) the declared weed contained in or carried by an animal or vehicle was being transported, at the time of the conduct constituting the offence, to a designated weed disposal area and the person took all reasonable measures to secure and contain the declared weed during the course of transporting it.

*Note for subsection (2)*

*The defendant has an evidential burden in relation to the matters in subsection (2) (see section 43BU of the Criminal Code).*

#### **9J Offence to supply product containing declared weeds**

- (1) A person commits an offence if:
- (a) the person intentionally sells, offers to sell or provides to another person a product or other thing; and
  - (b) the product or thing contains a declared weed and the person is reckless in relation to that circumstance.

Penalty: environmental offence level 3.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (2)*

*The defendant has an evidential burden in relation to the matters in subsection (2) (see section 43BU of the Criminal Code).*

#### **9K General duties of owner or occupier of land for declared weeds**

- (1) An owner or occupier of land has a duty to:
- (a) take all reasonable measures to prevent the spread of a declared weed on the land; and
  - (b) take all reasonable measures to prevent a declared weed on the land spreading to other land; and



- (c) if the owner or occupier of the land becomes aware of the presence on the land of a declared weed that was not previously present on the land – within 14 days after first becoming aware of the presence on the land of the declared weed, notify an officer of the presence of the declared weed.
- (2) If an owner or occupier of land destroys or disposes of a declared weed, the owner or occupier has a duty to destroy or dispose of the declared weed on the land or at a designated weed disposal area.

*Note for section 9K*

*If there is a declared weed present on land, the owner or occupier of the land must comply with any weed management plan for the declared weed (see section 9E(1)(a)).*

**9L            Offence to fail to comply with duty in respect of declared weeds on land**

- (1) A person commits an offence if:
  - (a) the person is an owner or occupier of land; and
  - (b) there exists on the land a declared weed and the person has knowledge of that circumstance; and
  - (c) the person fails to take reasonable measures to prevent the declared weed from spreading; and
  - (d) the declared weed spreads on the land or to other land and the person is reckless in relation to that result.

Penalty:                            environmental offence level 3.

- (2) A person commits an offence if:
  - (a) the person is an owner or occupier of land; and
  - (b) there exists on the land a declared weed and the person has knowledge of that circumstance; and
  - (c) the person disposes of the declared weed at a place; and
  - (d) the place is not the land owned or occupied by the person where the declared weed exists or a designated weed disposal area and the person is reckless in relation to that circumstance.

Penalty:                            environmental offence level 3.

- (3) Strict liability applies to subsections (1)(a) and (c) and (2)(a) and (c).
- (4) A person commits an offence if:
- (a) the person disposes of a declared weed at a place; and
  - (b) the place is not land owned or occupied by the person where the declared weed exists or a designated weed disposal area.
- Penalty: environmental offence level 4.
- (5) A person commits an offence if:
- (a) the person is an owner or occupier of land; and
  - (b) there becomes present on the land a declared weed that was not previously present on the land; and
  - (c) the person fails to notify an officer of the presence of the declared weed within 14 days after first becoming aware of the presence of the declared weed on the land.
- Penalty: environmental offence level 4.
- (6) An offence against subsection (4) or (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (1), (2), (4) or (5) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (7)*

*The defendant has an evidential burden in relation to the matters in subsection (7) (see section 43BU of the Criminal Code).*

## **Division 2 Weed management plans**

### **10 Weed management plans**

- (1) The Minister may, by notice in the *Gazette*, approve a weed management plan for one or more of the following purposes:
- (a) to prevent a declared weed or potential weed entering the Territory;
  - (b) to prevent anything containing or carrying a declared weed or potential weed being brought into or taken out of the Territory;

- (c) to manage a declared weed or potential weed within the Territory or a part of the Territory; or
  - (d) to prevent a declared weed or potential weed being propagated or moved within the Territory.
- (2) A weed management plan is to include the following particulars:
- (a) the name of the plan;
  - (b) the area or activity to which the plan applies;
  - (c) the general and specific objectives of the plan;
  - (d) the name and any classification of the declared weed or potential weed to which the plan applies;
  - (e) the methods to be used to achieve the objectives of the plan and the time during which the methods are to be used, and other specifications required, to achieve the objectives of the plan;
  - (f) the methods to be used to prevent the spread within or from the area to which the plan applies;
  - (g) the requirements for owners and occupiers of land and officers to monitor the results of the plan and the methods used.
- (3) A weed management plan may include the following particulars:
- (a) the procedures for inspecting land, animals, vehicles, plants, fodder, soil and other things for the presence of declared weeds or potential weeds;
  - (b) the processes to be adopted following the removal of declared weeds or potential weeds from land to rehabilitate the land;
  - (c) the use of declared weeds under a permit;
  - (d) the program for educating the owners and occupiers of land in the area to which the plan applies and other persons to whom the plan applies on how to manage declared weeds or potential weeds;
  - (e) the criteria for obtaining assistance to carry out the obligations imposed under the plan and the extent of the assistance;
  - (f) any other particulars that are determined by the Minister.

- (4) A weed management plan may prohibit or restrict the use of a substance or class of substances or a methodology used to manage declared weeds or potential weeds.
- (5) A weed management plan may adopt or incorporate by reference any code, standard, methodology or publication, or a part of any code, standard or publication, published by any authority or body.

## **11 Approval of weed management plans**

- (1) Before approving a weed management plan, the Minister must give public notice of the proposed weed management plan.
- (1A) The Minister may determine the manner in which the public notice under subsection (1) is to be given.
- (2) A notice under subsection (1) is to specify the place where copies of the proposed plan may be inspected and a period, not less than 4 weeks, during which comment on the proposed weed management plan may be sent to the Minister.
- (3) The Minister:
  - (a) must consider any comments received during the period specified in the notice; and
  - (b) after considering the comments, may approve the proposed weed management plan with or without amendment.
- (4) A weed management plan remains in force for a period, not longer than 10 years, as specified by the Minister.
- (5) A weed management plan is to be published in a form approved by the Minister.

## **12 Review of weed management plans**

- (1) The Minister:
  - (a) must commence a review of each weed management plan before its expiry specified under section 11(4); and
  - (b) may review a weed management plan at any other time.
- (2) The Minister must give public notice of any review of a weed management plan.
- (2A) The Minister may determine the manner in which the public notice under subsection (2) is to be given.

- (3) A notice under subsection (2) is to specify a period, not less than 2 weeks, during which comments on the review may be sent to the Minister.
- (4) In the review of a weed management plan, the Minister:
  - (a) must consider any comments received during the period specified in the notice; and
  - (b) after considering the comments, may confirm, revoke or amend the weed management plan.
- (5) If the Minister amends a weed management plan, notice of the amendment, with an explanation of the reason for the amendment, is to be published in the *Gazette*.

### **13            Revocation or amendment of weed management plans**

In addition to section 12, the Minister may by notice in the *Gazette*, revoke or amend a weed management plan at any time.

## **Division 3            Enforcement**

### **14            Contravention of weed management plan**

- (1) If, in the opinion of the Minister, an owner or occupier of land contravenes a weed management plan, the Minister may, by written notice to the owner or occupier of the land, do any of the following:
  - (a) direct the person to comply with the weed management plan within the time specified in the notice;
  - (b) direct the person to prepare a proposed remedial weed management plan for the land and submit the proposed remedial weed management plan to the Minister in the time specified in the notice;
  - (c) prepare a remedial weed management plan for the land.

*Note for subsection (1)*

*Sections 9(1)(a) and 9E(1)(a) require an owner or occupier of land to comply with a weed management plan that applies to a declared weed or potential weed on that land.*

- (2) Without limiting subsection (1), a direction under that subsection may require the owner or occupier of the land to carry out works specified in the notice to ensure that any damage caused by the contravention of the weed management plan is remedied.

- (3) A remedial weed management plan prepared under this section must include the following:
  - (a) the name of the weed management plan that was contravened;
  - (b) the objectives of the remedial weed management plan;
  - (c) the time within which the objectives of the remedial weed management plan are to be achieved;
  - (d) the methods to be used to achieve the objectives of the remedial weed management plan;
  - (e) the intervals at which the owner or occupier of the land must report to the Minister on the operation of the plan;
  - (f) a description of the land to which the remedial weed management plan applies;
  - (g) any other matter specified by the Minister.
- (4) The Minister may, on receipt of a proposed remedial weed management plan under subsection (1)(b):
  - (a) approve in writing the proposed remedial weed management plan; or
  - (b) return the remedial weed management plan to the owner or occupier of the land and require the plan to be revised and resubmitted to the Minister within the time specified by the Minister.
- (5) The Minister must not return a proposed remedial weed management plan prepared under subsection (1)(b) to the owner or occupier of land for revision more than twice.
- (6) Without limiting subsection (1)(c), the Minister may prepare a remedial weed management plan for land if the owner or occupier of the land:
  - (a) fails to submit a proposed remedial weed management plan in accordance with a direction under subsection (1)(b); or
  - (b) submits a proposed remedial weed management plan that the Minister considers does not meet the requirements of this section.

- (7) An owner or occupier of land to which a remedial weed management plan applies must comply with the remedial weed management plan.

**14A        Remedial weed management plan**

- (1) The reasonable cost of the Minister preparing a remedial weed management plan under section 14(1)(c) or (6) is:
- (a) a debt due and payable to the Territory by the owner or occupier of the land; and
  - (b) an overriding statutory charge, within the meaning of the *Land Title Act 2000*, on the land to which it relates and which has priority over all other charges on the land.
- (2) For section 35 of the *Land Title Act 2000*, a remedial weed management plan is taken to impose a restriction on the use and occupation of the land to which it relates and the Minister must lodge with the Registrar-General a memorandum in accordance with that section.
- (3) A remedial weed management plan is binding on a mortgagee in possession of, and on successors in title to, the land to which it relates.

**14B        Offences related to weed management plans and remedial weed management plans**

- (1) A person commits an offence if:
- (a) the person is an owner or occupier of land; and
  - (b) a weed management plan applies to the land; and
  - (c) the person intentionally engages in conduct; and
  - (d) the conduct results in a contravention of the weed management plan and the person is reckless in relation to that result.

Penalty:                                    environmental offence level 3.

- (2) A person commits an offence if:
- (a) the person is an owner or occupier of land; and
  - (b) a remedial weed management plan applies to the land; and
  - (c) the person intentionally engages in conduct; and

- (d) the conduct results in a contravention of the remedial weed management plan and the person is reckless in relation to that result.

Penalty:                    environmental offence level 3.

- (3) Strict liability applies to subsections (1)(a) and (b) and (2)(a) and (b).

- (4) A person commits an offence if:

- (a) the person is an owner or occupier of land; and
- (b) the person is subject to a direction under section 14(1)(a); and
- (c) the person contravenes the direction.

Penalty:                    environmental offence level 4.

- (5) A person commits an offence if:

- (a) the person is an owner or occupier of land; and
- (b) the person is subject to a direction under section 14(1)(b); and
- (c) the person contravenes the direction.

Penalty:                    environmental offence level 4.

- (6) A person commits an offence if the person contravenes a remedial weed management plan.

Penalty:                    environmental offence level 4.

- (7) An offence against subsection (4), (5) or (6) is an offence of strict liability.

- (8) It is a defence to a prosecution for an offence against subsection (1), (2), (4), (5) or (6) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (8)*

*The defendant has an evidential burden in relation to the matters in subsection (8) (see section 43BU of the Criminal Code).*



## **Division 4 Emergency weed management plans**

### **15 Emergency weed management plans**

- (1) The Minister may, by notice in the *Gazette*, approve an emergency weed management plan if the extent or severity of an infestation of a declared weed requires, or is likely to require, that the infestation be managed immediately.
- (2) An emergency weed management plan may include particulars that are required or permitted to be included in a weed management plan.
- (3) An emergency weed management plan:
  - (a) remains in force for 6 months; and
  - (b) may be extended by the Minister, by notice in the *Gazette*, for one period, not longer than 6 months, as specified in the notice.
- (4) A notice under subsection (1) is to state the place where the emergency weed management plan is available for inspection by the public.

### **15A Offences related to emergency weed management plans**

- (1) A person commits an offence if:
  - (a) the person is an owner or occupier of land; and
  - (b) an emergency weed management plan applies to the land; and
  - (c) the person intentionally engages in conduct; and
  - (d) the conduct results in a contravention of the emergency weed management plan and the person is reckless in relation to that result.

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(a) and (b).
- (3) A person commits an offence if the person contravenes an emergency weed management plan.

Penalty: environmental offence level 4.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

## **Division 5 Weed control notice**

### **15B Weed control notice**

- (1) The Minister may issue a weed control notice in writing to a person if, in the opinion of the Minister, a person fails to comply with a duty under this Act in relation to a declared weed or potential weed.
- (2) A weed control notice under subsection (1) may:
  - (a) notify the person of the person's failure to comply with the duty and direct the person to comply with the duty within the time specified in the notice; and
  - (b) direct the person to carry out works specified in the notice to ensure that:
    - (i) any damage caused by the failure to comply with the duty is remedied; and
    - (ii) without limiting subparagraph (i), any declared weed or potential weed on land the person owns or occupies is controlled or eradicated.

### **15C Offence to contravene weed control notice**

- (1) A person commits an offence if:
  - (a) the person is subject to a weed control notice under section 15B(1); and
  - (b) the person intentionally engages in conduct; and
  - (d) the conduct results in a contravention of the weed control notice and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (2) Strict liability applies to subsection (1)(a).

- (3) A person commits an offence if:
- (a) the person is subject to a weed control notice under section 15B(1); and
  - (b) the person contravenes the notice.

Penalty: environmental offence level 3.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

## **Division 6 Weed management works**

### **15D Power to carry out works**

The Minister may cause weed management works to be carried out on land if the owner or occupier of the land:

- (a) fails to comply with a direction given under section 14(1)(a) to comply with a weed management plan; or
- (b) fails to comply with a direction given under section 14(1)(b) to prepare a proposed remedial weed management plan; or
- (c) contravenes a remedial weed management plan:
  - (i) prepared under section 14(1)(c) or (6); or
  - (ii) prepared and approved under section 14(1)(b) and (4)(a); or
- (d) contravenes an emergency weed management plan; or
- (e) fails to comply with a direction to comply with a duty specified in a weed control notice issued under section 15B(1); or
- (f) fails to comply with an order given under section 28(1)(g) to treat the land or destroy plants.

**15E Engaging persons to carry out works**

- (1) The Minister may appoint or engage a suitably qualified person to carry out weed management works under section 15D.
- (2) A person appointed or engaged under subsection (1) may enter land, other than a dwelling, for the purposes of carrying out the works.

**15F Cost of weed management works**

- (1) The reasonable cost of carrying out weed management works under section 15D is:
  - (a) a debt due and payable to the Territory by the owner or occupier of the land on which the works are carried out; and
  - (b) an overriding statutory charge, within the meaning of the *Land Title Act 2000*, on the land to which it relates and which has priority over all other charges on the land.
- (2) For section 35 of the *Land Title Act 2000*, a charge in respect of weed management works carried out under section 15D is taken to impose a restriction on the use and occupation of the land to which it relates and the Minister must lodge with the Registrar-General a memorandum in accordance with that section.

**Part 4 Weed advisory committees****16 Weed advisory committees**

- (1) The Minister may establish weed advisory committees for regions, districts or catchment areas of the Territory, for all of the Territory, or for specific purposes.
- (2) A weed advisory committee consists of persons appointed by the Minister who, in the opinion of the Minister, have expertise or experience relevant to the management of declared weeds or who represent groups or organisations that are concerned with the management of declared weeds or related matters.
- (3) The Minister is to appoint a member of a weed advisory committee to be the Chairperson of the committee.
- (4) A member of a weed advisory committee holds office for a period not exceeding 3 years specified in the instrument of appointment and is eligible to be re-appointed.

- (5) A member of a weed advisory committee may resign by writing delivered to the Minister.

## **17 Functions of weed advisory committees**

The functions of a weed advisory committee are:

- (a) to develop draft weed management plans in consultation with appropriate persons, groups or organisations, and with persons whose land may be affected by a declared weed infestation;
- (b) to advise the Minister on the progress of weed management in the region, district, catchment area or the specific purpose for which it was established; and
- (c) to advise the Minister on other matters as the Minister may request from time to time.

## **18 Meetings of weed advisory committees**

- (1) The Chairperson of a weed advisory committee is to call meetings of the committee as and when required to perform its functions.
- (2) The Chairperson of a weed advisory committee is to convene a meeting of the committee when directed to do so by the Minister.
- (3) At a meeting of a weed advisory committee:
  - (a) one more than half of the members of the committee holding office constitutes a quorum;
  - (b) the Chairperson, if present, is to preside but in the absence of the Chairperson the members present are to elect one of their number to act as Chairperson and that person may exercise the powers and perform the functions of the Chairperson at the meeting;
  - (c) questions arising are to be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the Chairperson or other member presiding at the meeting has, in addition to their deliberative vote, a casting vote; and
  - (d) the Chairperson or other member presiding at the meeting is to determine the procedure to be followed at or in connection with the meeting.
- (4) A weed advisory committee must cause records of its meetings to be kept.

**19 Disclosure of interest**

- (1) A member of a weed advisory committee who has or has had a direct or indirect proprietary or other pecuniary interest in a matter being considered or about to be considered by the committee (other than an interest held in common with other land owners or users of land in the area) must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the member's interest at a meeting of the committee.
- (2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the weed advisory committee and the member, in relation to the matter:
  - (a) is not, while the member has that interest (otherwise than as a member of, and in common with the other members of, a corporation consisting of not less than 25 persons and of which the member is not a director) to take part after the disclosure in any deliberation or decision of the committee; and
  - (b) is to be disregarded for the purpose of constituting a quorum at the meeting.

**20 Offence for weed advisory committee member to disclose certain information**

- (1) A person commits an offence if:
  - (a) the person is a member of a weed advisory committee; and
  - (b) the person obtains information in the course of performing a function connected with the administration of this Act; and
  - (c) the information is confidential and the person is reckless in relation to that circumstance; and
  - (d) the person intentionally engages in conduct; and
  - (e) the conduct results in the disclosure of the information and the disclosure is not:
    - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
    - (ii) to a person who is otherwise entitled to the information; and

- (f) the person is reckless in relation to the result and circumstance specified in paragraph (e).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a) and (b).
- (3) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

*Note for subsection (3)*

*In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).*

## **Part 5                      Quarantine and cleaning areas**

### **21                      Quarantine areas**

- (1) The Minister may, by notice in the *Gazette*, declare land described in the notice to be a quarantine area for the purpose of preventing a declared weed entering into the Territory or to manage a declared weed in the Territory or a part of the Territory.
- (2) A notice under subsection (1):
- (a) is to specify the period the declaration is to remain in force; and
  - (b) may impose restrictions on the movement of persons, animals, vehicles, aircraft, boats, plants, fodder, soil or any other thing in, into or out of the quarantine area except in accordance with an access permit.
- (3) As soon as practicable after making a declaration under subsection (1), the Minister must:
- (a) give public notice of the declaration; and
  - (b) take reasonable steps to ensure that each owner or occupier of land in the quarantine area is notified of the declaration; and
  - (c) take reasonable steps to ensure that each owner or occupier of land adjacent to the land in the quarantine area is notified of the declaration.

- (4) The Minister may determine the manner in which the public notice under subsection (3)(a) is to be given.

### **21A Restrictions attached to land in quarantine areas**

- (1) For section 35 of the *Land Title Act 2000*, a declaration of a quarantine area is taken to impose a restriction on the use and occupation of the land to which it relates and the Minister must lodge with the Registrar-General a memorandum in accordance with that section.
- (2) An owner or occupier of land included in a quarantine area must notify the Minister in writing before undertaking the following transactions:
- (a) selling, leasing or sub-leasing a part of the land that is included in the quarantine area to another person;
  - (b) permitting another person to occupy a part of the land that is included in the quarantine area by way of a gift or in exchange for a benefit.

### **21B Offence related to quarantine areas**

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
  - (b) the conduct results in a contravention of a restriction specified in a declaration of a quarantine area under section 21 and the person is reckless in relation to that result.

Penalty: environmental offence level 2.

- (2) A person commits an offence if the person contravenes a restriction specified in a declaration of a quarantine area under section 21.

Penalty: environmental offence level 3.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*



**22 Access permit**

- (1) A person may apply to an officer for an access permit.
- (2) The application is to be in the approved form and accompanied by the prescribed fee.
- (3) Subject to subsection (4), an officer may grant or refuse to grant an access permit.
- (4) The Minister may, by notice in the *Gazette*, give directions relating to matters that an officer must consider before granting an access permit, including whether the person, animal, vehicle, aircraft, boat, plant, fodder, soil or other thing has been disinfected or treated in the manner specified in the notice.
- (5) An access permit is subject to the conditions determined by the officer and endorsed on the access permit.

**22A Offence related to access permits**

- (1) A person commits an offence if:
  - (a) the person is a holder of an access permit; and
  - (b) the person intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the access permit and the person is reckless in relation to that result.

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(a).

- (3) A person commits an offence if:

- (a) the person is a holder of an access permit; and
- (b) the person contravenes the access permit.

Penalty: environmental offence level 4.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

**23 Cleaning areas**

- (1) The Minister may, by notice in the *Gazette*, declare land described in the notice to be a cleaning area for the purpose of preventing a declared weed or potential weed entering into the Territory or to manage a declared weed or potential weed in the Territory or a part of the Territory.
- (2) The Minister may determine rules that apply to the management of a cleaning area and to persons using a cleaning area and the fees to be paid to use facilities in a cleaning area.
- (3) If the Minister determines rules for a cleaning area under subsection (2), the Minister must:
  - (a) give public notice of the rules; and
  - (b) take reasonable steps to ensure that a copy of the rules is available for inspection at the cleaning area to which the rules apply.
- (4) The Minister may determine the manner in which the public notice under subsection (3)(a) is to be given.

**23A Restrictions attached to land in cleaning areas**

- (1) For section 35 of the *Land Title Act 2000*, a declaration of a cleaning area is taken to impose a restriction on the use and occupation of the land to which it relates and the Minister may lodge with the Registrar-General a memorandum in accordance with that section.
- (2) An owner or occupier of land included in a cleaning area must notify the Minister in writing before undertaking the following transactions:
  - (a) selling, leasing or sub-leasing a part of the land that is included in the cleaning area to another person;
  - (b) permitting another person to occupy a part of the land that is included in the cleaning area by way of a gift or in exchange for a benefit.

**23B Offence to contravene cleaning area rules**

- (1) A person commits an offence if the person contravenes any rule determined by the Minister under section 23(2).

Penalty: environmental offence level 4.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (3)*

*The defendant has an evidential burden in relation to the matters in subsection (3) (see section 43BU of the Criminal Code).*

## **Part 6                      Weed management officers and authorised persons**

### **24                      Weed management officers**

- (1) The Minister may appoint a public sector employee to be a weed management officer.
- (2) The Minister must issue to an officer an approved identity card.
- (2A) An identity card issued under subsection (2) must:
  - (a) contain the officer's photograph; and
  - (b) be signed by the officer; and
  - (c) be verified by the Minister.
- (3) An officer who enters land under section 28 is to produce the card issued under subsection (2) on the request of the owner or occupier of the land.
- (4) An officer's appointment remains in force only while the officer is a public sector employee.

### **25                      Authorised persons**

- (1) The Minister may, in writing, appoint a person to be an authorised person.
- (2) An authorised person may, subject to the conditions determined by the Minister, exercise the powers of an officer that are specified in the authorised person's appointment.
- (3) The Minister may issue to an authorised person an approved identity card.
- (4) An identity card issued under subsection (3) must:
  - (a) contain the authorised person's photograph; and

- (b) be signed by the authorised person; and
  - (c) be verified by the Minister.
- (5) If an authorised person exercises a power of an officer in relation to a person, the authorised person must:
- (a) produce the authorised person's appointment or identity card if requested by the person; and
  - (b) identify for the person the power in the authorised person's appointment.

### **25A Return of identity card**

- (1) A person who ceases to be an officer must return the person's identity card issued under section 24(2) to the Minister within 10 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) A person who ceases to be an authorised person must return the person's identity card issued under section 25(3) to the Minister within 10 days after the cessation.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code)*

### **26 Obstruction of officers and authorised persons**

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
  - (b) the other person is an officer or authorised person; and
  - (c) the officer or authorised person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

(3) In this section:

**acting in an official capacity**, in relation to an officer or authorised person, means the officer or authorised person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

**obstruct** includes hinder or resist.

## 27 Misleading information

(1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the other person is an officer or authorised person; and
- (c) the information is misleading and the person has knowledge of that circumstance; and
- (d) the officer or authorised person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is an officer or authorised person; and
- (c) the document contains misleading information and the person has knowledge of that circumstance; and
- (d) the officer or authorised person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:
- (a) draws the misleading aspect of the information or document to the officer or authorised person's attention; and
  - (b) to the extent to which the defendant can reasonably do so – gives the officer or authorised person the information necessary to remedy the misleading aspect of the information or document.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

- (5) In this section:

***acting in an official capacity***, in relation to an officer or authorised person, means the officer or authorised person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

## **28 Powers of officers**

- (1) An officer may, for the purposes of this Act, do any of the following:
- (a) require an owner or occupier of land to provide information concerning the origin and destination of any thing on the land;
  - (b) require the owner or person in control of a vehicle, boat, aircraft or animal to stop the vehicle, boat, aircraft or animal;
  - (ba) search or inspect a vehicle, boat, aircraft or animal required to stop under paragraph (b) for the presence of declared weeds or potential weeds;
  - (bb) require any person to provide the person's name and address;
  - (c) order the owner or person in control of a vehicle, boat, aircraft, animal, plant, fodder, soil or any other thing that contains or may contain, or is or may be contaminated by, a declared weed or potential weed to take it to a cleaning area or other place specified by the officer in the manner and within the period specified by the officer and to clean or treat the vehicle, boat, aircraft, animal, plant, fodder, soil or thing in the manner and within the time specified by the officer;
  - (d) order the owner or person in control of an animal, plant, fodder, soil or other thing that contains or may contain, or is or

may be contaminated by, a declared weed or potential weed not to sell the animal, plant, fodder, soil or thing until an officer certifies that it has been cleaned to the satisfaction of the officer;

- (e) order the owner or person in control of a plant, fodder, soil or other thing that contains or may contain, or is or may be contaminated by, a declared weed or potential weed to destroy it if it has not been cleaned to the satisfaction of the officer;
- (f) order the owner or person in control of an animal that the officer suspects has been exposed to or is carrying a declared weed or potential weed to take the animal to a place or cleaning area specified by the officer and to remain there for the period that the officer thinks is necessary to enable the declared weed or potential weed to be cleared from the animal's gut;
- (g) order the owner or occupier of land on which a declared weed or potential weed is located to treat the land or destroy plants on the land to control or eradicate the declared weed or potential weed on the land;
- (h) order the owner or occupier of land on which a declared weed or potential weed is located to transport the declared weed or potential weed to a designated weed disposal area within the time and in the manner specified by the officer;
- (i) mark or tag a declared weed or potential weed, or a container for a declared weed or potential weed, with any notice of a requirement under this Act in relation to the declared weed or potential weed or the container (as the case requires);
- (j) require a holder of an access permit or a permit to produce the access permit or permit for inspection;
- (k) take photographs and make sketches or other records of land, premises, things found on land or premises or of any other thing;
- (l) make recordings in any medium, including audio, visual and audio-visual recordings, of land, premises, things found on land or premises or of any other thing;
- (m) seize any of the following things:
  - (i) a declared weed;
  - (ii) a potential weed;

- (iii) a container for a declared weed or potential weed;
  - (iv) a document;
  - (v) any equipment required to access any document;
  - (n) authorise a person to provide assistance to an officer in the exercise of an officer's powers.
- (2) An order under this section may be given orally but must be confirmed in writing as soon as practicable after it is given.
- (3) An officer who is satisfied that a person has complied with an order given under subsection (1)(c) is to issue a certificate that the vehicle, boat, aircraft, animal, plant, fodder, soil or thing has been cleaned in accordance with the order on being requested to provide a certificate by the person.
- (4) If an order is given to an owner or person in control of an animal under this section, the owner or person remains responsible for the animal's welfare (including the feeding of the animal) while the order remains in force.

#### **28A Powers of officers to enter land**

An officer may, for the purposes of this Act, enter land other than a dwelling and do any of the following:

- (a) search the land and any thing found on the land;
- (b) take photographs and make sketches or other records of the land, premises and things found on the land or premises;
- (c) make recordings in any medium, including audio, visual and audio-visual recordings, of the land, premises and things found on the land or premises;
- (d) inspect and take copies of any documents found on the land;
- (e) take samples of any thing found on the land;
- (f) open any packages and cartons on the land and inspect and take samples of the contents.



**28B Reasonable assistance to be given to officers**

In exercising a power under section 28A, an officer may require the owner or occupier of, or any other person on, the land the officer has entered to give the officer reasonable assistance to exercise or perform the officer's powers under that section including:

- (a) to operate any computer or other equipment; and
- (b) to provide any access or assistance to access any computer or other equipment.

**28C Duty of officer in relation to seized thing**

- (1) As soon as practicable but within 5 days after an officer seizes a thing under section 28(1)(m), the officer must give a receipt for the seized thing to the person from whom it was seized.
- (2) The receipt must describe generally each thing seized and its condition.
- (3) If for any reason it is not practicable to comply with subsection (1), the officer must:
  - (a) leave the receipt at the place of seizure; and
  - (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.
- (4) The officer must allow a person who would be entitled to the seized thing if it were not in the officer's possession to inspect it and, if it is a document, to take extracts from it or make copies of it.
- (5) The officer must return the seized thing to its owner at the end of the later of:
  - (a) 2 years; or
  - (b) if a prosecution for an offence involving the seized thing is started within the 2 years – 12 months after the end of the prosecution for the offence and any appeal from the prosecution.
- (6) Despite subsection (5), the officer must return the seized thing to its owner if its retention as evidence is no longer necessary.
- (7) Despite subsections (5) and (6), the officer may keep the seized thing if the officer believes on reasonable grounds that it is necessary to continue to keep it to prevent its use in committing an offence.

- (8) An officer must give written notice to the owner of a seized thing as soon as practicable if the officer decides under subsection (7) to keep the thing.

**28D Forfeiture of seized thing**

- (1) Despite section 28C, if the owner of the seized thing is convicted of an offence for which the thing was retained as evidence, the court may order its forfeiture to the Territory.
- (2) The forfeited thing becomes the property of the Territory and may be destroyed or disposed of as directed by the Chief Executive Officer.
- (3) This section does not limit the court's powers under any other law of the Territory.

**28E Offence to contravene order or requirement**

- (1) A person commits an offence if:
- (a) the person is given an order under section 28; and
  - (b) the person contravenes the order.
- Maximum penalty: 100 penalty units.
- (2) A person commits an offence if:
- (a) the person is required to do a thing under section 28 or 28B; and
  - (b) the person contravenes the requirement.
- Maximum penalty: 100 penalty units.
- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).*

**Part 6A            Permits to use weeds****28F            Permits to use declared weed or potential weed**

- (1) A person may apply to the Minister for a permit to use:
  - (a) a declared weed for conduct specified in section 9E(2); or
  - (b) a potential weed for conduct specified in section 9(2).
- (2) An application must be in the approved form and accompanied by the prescribed fee.
- (3) The Minister may grant or refuse to grant a permit.
- (4) A permit is subject to any conditions the Minister considers appropriate.
- (5) The Minister must give the applicant written notice of a decision under subsection (3) and the reasons for the decision as soon as practicable after the Minister makes the decision.

**28G            Minister may require bond for permit to use declared weed**

- (1) Without limiting section 28F(4), the Minister may determine that providing a bond is a condition of a permit to use a declared weed.
- (2) The Minister must determine the amount or value of the bond to be provided.
- (3) The amount or value of the bond must be sufficient to secure:
  - (a) the permit holder's compliance with the permit; and
  - (b) the payment of any reasonable costs and expenses of the Minister that may be incurred by the Minister to:
    - (i) prevent the spread and impact of a declared weed as a result of an action taken under the permit; and
    - (ii) mitigate the impact of a declared weed as a result of an action taken under the permit; and
    - (iii) rehabilitate land affected by a declared weed as a result of an action taken under the permit.

- (4) In determining the amount or value of a bond, the Minister may consider:
  - (a) the risks associated with the declared weed, including the propensity of the declared weed to spread and the likely consequences of its spread; and
  - (b) the use for which the permit is sought.
- (5) The Minister may determine the nature of the bond to be provided, which may include:
  - (a) cash; or
  - (b) a bank guarantee; or
  - (c) any other form of financial accommodation acceptable to the Minister.
- (6) In determining the amount or value of a bond under subsection (2), the Minister may specify that the amount of a bond is to be recalculated at different stages of the proposed use of the declared weed to which the permit relates.
- (7) The Minister must have regard to the matters specified in subsections (3) and (4) for recalculating an amount of a bond under subsection (6).
- (8) The Minister may make a claim on the bond to satisfy a matter secured under subsection (3).

#### **28H Holder to carry permit**

Without limiting section 28F(4), it is a condition of a permit for a permit holder to:

- (a) carry the permit when transporting a declared weed or potential weed; and
- (b) on request of an officer or authorised person – produce the permit for inspection.

#### **28J Variation, revocation and renewal of permit on application**

- (1) A person may apply to the Minister for a variation, revocation or renewal of a permit.
- (2) An application must be in the approved form and accompanied by the prescribed fee.

- (3) On an application under subsection (1), the Minister may:
  - (a) vary or refuse to vary a permit; or
  - (b) revoke or refuse to revoke a permit; or
  - (c) renew or refuse to renew a permit, including renewing a permit subject to any conditions.
- (4) A condition imposed on the variation or renewal of a permit to use a declared weed may include a change to any bond amount.
- (5) The Minister must give the applicant written notice of a decision under subsection (3) and the reasons for the decision as soon as practicable after the Minister makes the decision.

**28K Variation and revocation by Minister**

- (1) The Minister may vary or revoke a permit, including varying the conditions to which a permit is subject.
- (2) Before making a decision under subsection (1), the Minister must give the permit holder:
  - (a) written notice of the proposed variation or revocation; and
  - (b) an opportunity to provide comment on the proposed variation or revocation within the time specified in the notice.
- (3) A condition imposed on the variation of a permit to use a declared weed may include a change to any bond amount.
- (4) The Minister must give the holder of a permit written notice of a variation or revocation under subsection (1) and the reasons for the decision as soon as practicable after the Minister makes the decision.

**28L Offence to contravene permit**

- (1) A person commits an offence if:
  - (a) the person is a holder of a permit; and
  - (b) the person intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the permit and the person is reckless in relation to that result.

Penalty: environmental offence level 3.

- (2) Strict liability applies to subsection (1)(a).
- (3) A person commits an offence if:
- (a) the person is a holder of a permit; and
  - (b) the person contravenes the permit.
- Penalty: environmental offence level 4.
- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (5)*

*The defendant has an evidential burden in relation to the matters in subsection (5) (see section 43BU of the Criminal Code).*

## **Part 7                      Miscellaneous**

### **29                      Notification of presence of plants or weeds**

- (1) The Minister may, by written notice to the owner or occupier of land, require the owner or occupier to notify the Minister, in writing, of the presence of a plant, declared weed or potential weed on the land within the time specified in the notice.
- (2) The Minister may, by notice in the *Gazette*, require the owners and occupiers of land specified in the notice or the owners and occupiers of land in an area of the Territory specified in the notice to notify the Minister, in writing, of the presence of a plant, declared weed or potential weed on the land within the time specified in the notice.
- (2A) The Minister must give public notice of a notice under subsection (2).
- (2B) The Minister may determine the manner in which the public notice under subsection (2A) is to be given.
- (3) A notice under subsection (1) or (2) may require the following be given by the person to whom the notice applies:
- (a) particulars of where the plant, declared weed or potential weed is situated on the land;

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- (b) an estimate, based on investigations conducted in a specified manner, of the quantity of the plant, declared weed or potential weed on the land;
  - (c) any other information that the Minister may require and specifies in the notice.

### **30 Offence to contravene notification requirement**

- (1) A person commits an offence if:
  - (a) the person is an owner or occupier of land included in a notice by the Minister under section 29(1) or (2); and
  - (b) the person contravenes the notice.

Penalty: environmental offence level 4.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

*Note for subsection (3)*

*The defendant has an evidential burden in relation to the matters in subsection (3) (see section 43BU of the Criminal Code).*

### **33 Owner liable for costs incurred**

If a person who is not the owner of a vehicle, boat, aircraft, animal, plant, fodder, soil or other thing complies with an order under section 28, the person:

- (a) may sue for and recover from the owner the cost to the person of complying with the order; and
- (b) is not liable to the owner for the value of any plant, fodder, soil or thing destroyed in accordance with the order.

### **34 Fees**

The Minister may, by notice in the *Gazette*, prescribe the fees to be charged for a matter under this Act.

### **35 Protection of officers and members**

- (1) An action, claim or demand, either civil or criminal, cannot be commenced or continued against the Territory, an officer, authorised person or a member of a weed advisory committee in respect of an act or omission of the officer, authorised person or

member in good faith:

- (a) in the exercise or purported exercise of a power of the officer, authorised person or member; or
  - (b) in the performance or purported performance of a function of the officer, authorised person or member.
- (2) Except as provided by this Act, the Territory is not liable to pay compensation to a person as a result of the operation of this Act or of the due exercise of a power, function, authority or discretion conferred by this Act unless, in a particular case, it is an acquisition of property within the meaning of section 50 of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, in which case the acquisition is to be on just terms.

### **36 Appeals to Local Court**

- (1) A person aggrieved by a decision of the Minister, an officer or authorised person under this Act may, not later than 28 days after the day on which the person received notice of the decision, appeal against the decision to the Local Court.
- (2) An appeal is by way of a hearing de novo.
- (3) At the hearing of an appeal, the Local Court may:
- (a) confirm the decision of the Minister, officer or authorised person;
  - (b) set aside the decision; or
  - (b) set aside the decision and substitute any other decision that the Minister, officer or authorised person could have made as the Court specifies.

### **37 Service of documents**

A document required by this Act to be given to a person may be given:

- (a) by delivering it to the person;
- (b) by posting it to the person; and
- (c) in the case of a corporation – by posting or delivering it to the corporation at its registered office in the Territory or otherwise as provided by the Corporations Law.



**38 Continuing offences**

On finding a person guilty of an offence against a provision of this Act, a court may, in addition to the penalty specified for the offence, impose a further penalty, not exceeding 10 penalty units, for each day after the first day during which the offence continues if it is satisfied that the person continued in breach of, or had not complied with, the provision after the date when the offence was committed.

**39 Commencement of prosecutions**

A prosecution for an offence against this Act may only be commenced by an officer.

**39A Time for commencing prosecution**

A prosecution for an offence against this Act must be commenced not more than 2 years after the later of:

- (a) the date on which the alleged offence was committed; or
- (b) if the alleged offence is constituted by conduct that is a series of acts occurring over more than 1 day – the date that is the later of the days on which those acts occur; or
- (c) the date on which an officer became aware of the alleged offence.

**39B Statements of fact in complaint**

In a proceeding for an offence against this Act, a statement of fact may be made by an officer or authorised person in information as evidence in respect of the following physical elements of the offence:

- (a) that a plant is a declared weed;
- (b) that a plant is a potential weed;
- (c) that a plant is a species of plant nominated by the officer or authorised person.

**39C Evidentiary certificates**

A certificate purporting to be signed by an officer or authorised person specifying a matter referred to in section 39B is evidence of the matter specified in the certificate.

**40 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Regulations may prescribe the following:
  - (a) the particulars to be included in notices and certificates issued by officers or the Minister;
  - (b) the methods for treating declared weeds, including biological, mechanical, chemical and management methods;
  - (c) the methods for cleaning declared weeds from vehicles, boats, aircrafts, animals, plants, fodder, soil and other things contaminated by declared weeds;
  - (d) the payment of a prescribed amount in lieu of a penalty that may otherwise be imposed for an offence against this Act;
  - (e) the service of notices on persons alleged to have contravened this Act and particulars to be included in such notices;
  - (f) maximum penalties of 40 penalty units for offences, including strict or absolute liability offences, against the Regulations;
  - (g) matters about permits, including providing bonds and making claims on bonds.

**41 Repeal**

The *Noxious Weeds Ordinance 1962*, No. 39 of 1963, is repealed.

**42 Savings**

- (1) In this section, **repealed Act** means the Act repealed by section 41.
- (2) If, immediately before the commencement of this Act:
  - (a) a person was an Inspector of Noxious Weeds under the repealed Act, the person is, on that commencement, an officer as if appointed under section 24; and

- (b) a weed was a noxious weed under the repealed Act, the weed is, on that commencement, a declared weed as if declared under section 7 and it has the classification it had under the repealed Act.

## **Part 8 Transitional matters for Weeds Management Legislation Amendment Act 2022**

### **43 Definition**

In this Part:

**commencement** means the day on which Part 2 of the *Weeds Management Legislation Amendment Act 2022* commences.

### **44 Continuation of declarations**

- (1) A declaration of a declared weed made under section 7(1) and in force immediately before the commencement:
  - (a) remains in force after the commencement; and
  - (b) is taken to be a declaration made under section 7(1) as in force after the commencement.
- (2) A declaration of a potential weed made under section 7(2) and in force immediately before the commencement:
  - (a) remains in force after the commencement; and
  - (b) is taken to be a declaration made under section 7(2) as in force after the commencement.

### **45 Continuation of plans**

- (1) A remedial weed management plan approved under section 14(6)(a) and in force immediately before the commencement:
  - (a) remains in force after the commencement; and
  - (b) is taken to be a remedial weed management plan approved under section 14(4)(a) as in force after the commencement.
- (2) A remedial weed management plan prepared under section 14(8) and in force immediately before the commencement:
  - (a) remains in force after the commencement; and

- (b) is taken to be a remedial weed management plan prepared under section 14(6) as in force after the commencement.

#### **46 Continuation of orders**

An order given under section 28(1)(a)(viii) and in force immediately before the commencement:

- (a) remains in force after the commencement; and
- (b) is taken to be an order given under section 28(1)(g) as in force after the commencement.

#### **47 Offence provisions – before and after commencement**

- (1) Sections 9(1), (2), (3), (4), (6) and (8), 14(4), (12) and (13), 15(5) and (6), 20, 21(3) and (4), 23(3) and (4), 24(5), 26(1) and (2), 27, 29(4) and (5), 30(6) and (7), 31(1) and (2) and 32(1) and (3) as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.
- (2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

#### ***Weeds Management Act 2001 (Act No. 2, 2001)***

Assent date	22 March 2001
Commenced	1 July 2001 ( <i>Gaz S34</i> , 1 July 2001)

#### ***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date	12 July 2013
Commenced	28 August 2013 ( <i>Gaz G35</i> , 28 August 2013, p 2)

#### ***Weeds Management Legislation Amendment Act 2022 (Act No. 7, 2022)***

Assent date	26 May 2022
Commenced	9 January 2023 ( <i>Gaz G48</i> , 7 December 2022, p 1)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 7, 14 and 24.

### 4 LIST OF AMENDMENTS

s 3	amd No. 7, 2022, s 4
s 4	amd No. 7, 2022, s 5
s 5A	ins No. 7, 2022, s 6
s 6	amd No. 7, 2022, s 32
s 7	sub No. 7, 2022, s 7
s 8	amd No. 7, 2022, s 8
s 9	sub No. 7, 2022, s 9
ss 9A – 9L	ins No. 7, 2022, s 9
s 10	amd No. 7, 2022, s 32
s 11	amd No. 7, 2022, s 10
s 12	amd No. 7, 2022, s 11

## ENDNOTES

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pt 3	
div 3 hdg	sub No. 7, 2022, s 12
s 14	sub No. 7, 2022, s 12
ss 14A – 14B	ins No. 7, 2022, s 12
s 15	amd No. 7, 2022, s 13
s 15A	ins No. 7, 2022, s 14
pt 3	
div 5 hdg	ins No. 7, 2022, s 14
ss 15B – 15C	ins No. 7, 2022, s 14
pt 3	
div 6 hdg	ins No. 7, 2022, s 14
ss 15D – 15F	ins No. 7, 2022, s 14
s 16	amd No. 7, 2022, s 15
ss 18 – 19	amd No. 7, 2022, s 32
s 20	amd No. 23, 2013, s 14
	sub No. 7, 2022, s 16
s 21	amd No. 7, 2022, s 17
ss 21A – 21B	ins No. 7, 2022, s 18
s 22A	ins No. 7, 2022, s 19
s 23	amd No. 7, 2022, s 20
ss 23A – 23B	ins No. 7, 2022, s 21
s 24	amd No. 23, 2013, s 14; No. 7, 2022, s 22
s 25	amd No. 7, 2022, s 23
s 25A	ins No. 7, 2022, s 24
ss 26 – 27	amd No. 23, 2013, s 14
	sub No. 7, 2022, s 24
s 28	amd No. 7, 2022, s 25
ss 28A – 28E	ins No. 7, 2022, s 26
pt 6A hdg	ins No. 7, 2022, s 26
ss 28F – 28L	ins No. 7, 2022, s 26
s 29	amd No. 7, 2022, s 27
s 30	sub No. 7, 2022, s 28
ss 31 – 32	rep No. 7, 2022, s 28
s 33	amd No. 7, 2022, s 32
ss 39A – 39C	ins No. 7, 2022, s 29
s 40	amd No. 23, 2013, s 14; No. 7, 2022, s 30
pt 8 hdg	ins No. 7, 2022, s 31
ss 43 – 47	ins No. 7, 2022, s 31