



NORTHERN TERRITORY OF AUSTRALIA

No. 2 of 1989

AN ACT

to amend the Plant Diseases Control Act

[Assented to 14 March 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the Plant Diseases Control Amendment Act 1989.

2. COMMENCEMENT

This Act shall come into operation on 15 March 1989.

3. PRINCIPAL ACT

The Plant Diseases Control Act is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 6 of the Principal Act is amended -

- (a) by omitting the definition of "fruit" and substituting the following:

"'fruit' includes host fruit and the flesh, peel, skin, shell, husk, seed, stone or nut of any fruit or host fruit;"; and

- (b) by omitting from the definition of "plant" the words "and includes" and substituting "and includes a host plant and".
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5. PROHIBITION OF IMPORTATION

Section 8 of the Principal Act is amended by adding at the end the following:

"(3) In addition to any penalty imposed under subsection (2), the Court by which the person was convicted may order the forfeiture to the Territory of -

- (a) the fruit, plant, packaging or goods the subject of the offence (if it has not already been destroyed pursuant to section 14(4)); or
- (b) the proceeds from the sale or other disposal under section 14A of any fruit, plant or packaging the subject of the offence.

"(4) Any fruit, plant, packaging or goods forfeited under subsection (3)(a) shall be disposed of in accordance with the directions of the Court or, where no such directions are given, as the Chief Inspector thinks fit (including by sale).".

6. POWERS OF INSPECTORS

Section 14 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) An inspector may, with or without assistance -

- (a) enter any land, premises, vehicle, train, aircraft, vessel, carriage or conveyance on or in which there is, or the inspector suspects that there is, any fruit, plant or packaging -
 - (i) affected by a pest or disease;
 - (ii) imported or introduced into the Territory; or
 - (iii) originating from, or having been in, a place in the Territory where, in the inspector's opinion, a pest or disease which may affect the fruit, plant or packaging is present;
- (b) search for any such fruit, plant or packaging;
- (c) open, if necessary by force, any container found thereon or therein which he believes, on reasonable grounds, may contain any such fruit, plant or packaging; and
- (d) examine any fruit, plant or packaging found for the purpose of determining whether it is affected by a pest or disease or for the purpose of identifying it.

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"(1A) An inspector may exercise a power under subsection (1) notwithstanding that the fruit, plant or packaging may have been imported or introduced into the Territory or a part of the Territory -

(a) in the case of a host fruit, host plant or packaging - through a place specified in a notice under section 9(1); or

(b) in any case - under, and in compliance with the conditions specified in, a notice under section 8(1);";

(b) by inserting after subsection (4) the following:

"(4A) Without limiting the inspector's powers under subsection (4), an inspector -

(a) may seize any fruit, plant or packaging found by him which he suspects, on reasonable grounds, was -

(i) in the case of a host fruit, host plant or packaging - introduced into the Territory in contravention of section 9(2); or

(ii) in any case - imported or introduced into the Territory, or that part of the Territory in which they were found, in contravention of section 8 or a condition of a notice under subsection (1) of that section;

(b) direct a person having the possession of any such fruit, plant or packaging to remove it from the Territory or part of the Territory within the time and in accordance with the conditions, if any, specified by the inspector."; and

(c) by omitting from subsection (5) "sub-section (4)" and substituting "subsection (4) or (4A) (b)".

7. NEW SECTION

The Principal Act is amended by inserting after section 14 the following:

"14A. DISPOSAL OF SEIZED PERISHABLE ARTICLES

"(1) Where in the opinion of the inspector any fruit, plant or packaging seized under section 14(4A) may rot, spoil or otherwise perish, the inspector may arrange for its sale or other disposal (and, in the case of packaging, the sale or other disposal of the fruit or plant with which it was seized) as the inspector thinks fit.

"(2) The proceeds, if any, from the sale or other disposal under subsection (1) of any fruit, plant or packaging, shall be held by the Territory until -

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- (a) a decision is made not to proceed against any person for an offence against section 8(2) or 9(2) in respect of the relevant fruit, plant or packaging;
- (b) where no such proceedings are commenced within a period of one month after the seizure of the fruit, plant or packaging - the expiration of that period; or
- (c) where such proceedings are commenced within that period - the completion of those proceedings or as the court before which they are brought otherwise directs,

and, unless the proceeds are forfeited under section 8(3), they shall be paid to the person entitled at law to them.

"(3) Neither an inspector nor the Territory is liable to any person for any spoilage or deterioration in the quality of any fruit, plant or packaging seized under section 14(4A).".

8. SUPPLY OF NAME AND ADDRESS

Section 21 of the Principal Act is amended -

- (a) by omitting from subsection (1) "his name and place of residence" and substituting "the person's name and residential address"; and
- (b) by omitting from subsection (2) paragraph (a) and (b) and substituting the following:
 - "(a) fail or refuse to state the person's name and residential address; or
 - (b) give a name or residential address that is not the person's true name or residential address,".