

NORTHERN TERRITORY OF AUSTRALIA
PLANT DISEASES CONTROL AMENDMENT BILL 1994

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Plant Diseases Control Act*

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 1994*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

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 inserting at the end of the definition of "Chief Inspector" the words "and includes a person appointed under section 7A to act as the Chief Inspector while so acting";

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- (b) by omitting paragraph (a) of the definition of "disease" and substituting the following:

"(a) a bacterium, fungus, protozoon, virus, other organism or pathogen or condition of a fruit or a plant that the Minister, by notice in the Gazette, declares to be a disease for the purposes of this Act; and";

- (c) by inserting at the end of the definition of "host fruit" the words "or a pest"; and

- (d) by inserting at the end of the definition of "host plant" the words "or a pest".

5. APPOINTMENT OF CHIEF INSPECTOR AND INSPECTORS

Section 7 of the Principal Act is amended -

- (a) by omitting from subsection (2) "Minister" and substituting "Chief Inspector"; and

- (b) by omitting subsection (3) and substituting the following:

"(3) The Chief Inspector holds office subject to such terms and conditions as the Minister determines.

"(3A) An inspector other than the Chief Inspector holds office subject to such terms and conditions as the Chief Inspector determines."

6. NEW SECTIONS

The Principal Act is amended by inserting after section 7 the following:

"7A. ACTING CHIEF INSPECTOR

"(1) The Minister may, in writing, appoint a person to act as the Chief Inspector during any period, or during all periods, when the Chief Inspector is absent from duty or from the Territory, or during a vacancy in the office.

"(2) A person appointed to act as the Chief Inspector may resign office in writing delivered to the Minister.

"7B. DELEGATION

"(1) The Chief Inspector may, in writing, delegate to a person any of the Chief Inspector'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, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Chief Inspector.

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"(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Chief Inspector."

7. PROHIBITION OF IMPORTATION

Section 8(1) of the Principal Act is amended -

(a) by inserting in paragraph (a) before "fruit" the words "all or part of a"; and

(b) by omitting paragraphs (b) and (c) and substituting the following:

"(b) all or part of -

(i) a fruit or a plant of a species; or

(ii) a member of a category of fruit or plant,

that is, in the opinion of the Minister, likely to introduce a pest or disease into the Territory and is specified in the notice;

"(c) all or part of -

(i) a host fruit or a host plant of a species;
or

(ii) a member of a category of host fruit or host plant,

that has been grown in a place specified in the notice, in which host fruit or host plants of that species or of that category grown in that place are subject to pests or diseases specified in the notice;"

8. QUARANTINE AREAS

Section 11(1) of the Principal Act is amended -

(a) by inserting in paragraph (a) before "a part" the words "all or";

(b) by omitting paragraphs (b) and (c) and substituting the following:

"(b) prohibit the removal from a quarantine area of all or part of -

(i) a fruit or plant of a species; or

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- (ii) a member of a category of fruit or plant, specified in the notice or of any packaging or other thing that, in the Minister's opinion, may transmit a pest or disease;
- (c) prohibit or regulate the movement within a quarantine area of all or part of
 - (i) a fruit or plant; or
 - (ii) a member of a category of fruit or plant, specified in the notice, or prohibit or regulate the movement outside a quarantine area of fruit or plant or a member of a category of fruit or plant from within the quarantine area;"
- (c) by omitting from subsection (1)(d) ", in addition to those prescribed, for the control or eradication of a pest or disease" and substituting "for the control or eradication of a pest or disease specified in the notice"; and
- (d) by omitting from subsection (1)(e) "of a specified species" and substituting "of a species or of a category of fruit or plant specified in the notice".

9. NEW SECTION

The Principal Act is amended by inserting after section 11 the following:

"11A. ACCREDITED PRODUCTION AREAS

- "(1) The Minister may, by notice in the Gazette,
 - (a) declare an area specified in the notice that is, in the Minister's opinion, free of specified diseases or pests, to be an accredited production area; and
 - (b) declare that a word or phrase specified in the notice may be used in the advertising, packaging or sale of fruit or plants grown in an accredited production area.
- "(2) A person shall not, in the advertising, packaging or sale of fruit or plants grown otherwise than in an accredited production area, use -
 - (a) a word or phrase specified in a notice referred to in subsection (1); or

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(b) a word or phrase,

in such a way as to be reasonably likely to suggest to a person that the fruit or plant was produced in an accredited production area.

Penalty: \$20,000 or imprisonment for 12 months."

10. NEW SECTION

The Principal Act is amended by inserting after section 13 the following:

"13A. DISPOSAL OF DISEASED PLANT MATERIAL, FRUIT, &c.

"(1) The Minister may, by notice in the Gazette, declare a method for the disposal of a plant or part of a plant that is infected or affected by, or reasonably suspected of being infected or affected by, a specified disease or diseases generally or a specified pest or pests generally.

"(2) A person shall not dispose of a plant or part of a plant to which a declaration under subsection (1) relates, except in accordance with the declaration.

Penalty: \$20,000 or imprisonment for 12 months."

11. POWERS OF INSPECTORS

Section 14 of the Principal Act is amended -

(a) by inserting in subsection (4) after "the owner of" the words "or person in possession of"; and

(b) by adding at the end the following:

"(6) All costs incurred by, or by the authority of, an inspector in performing the inspector's functions under this Act are a debt due to the Territory by the owner of the fruit or plant in respect of which the inspector performed the functions at the time the inspector performed those functions, and become payable at that time."

12. NEW SECTION

The Principal Act is amended by inserting after section 23 the following:

"23A. FALSE OR MISLEADING STATEMENTS

"A person shall not give to an inspector information that is, to the person's knowledge, false or misleading in any material particular.

Penalty: \$20,000 or imprisonment for 12 months."

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13. SERVICE OF NOTICES

Section 26 of the Principal Act is amended -

- (a) by omitting "Where" and substituting "(1) Where"; and
- (b) by adding at the end the following:
 - "(2) If -
 - (a) the whereabouts of an owner of land or premises who is required to be or may be served with a notice is not known; or
 - (b) the identity of the owner of land or premises is not known,

the notice may be served on the owner by publication of a copy of the notice in a newspaper published in the Territory and circulating in the area in which is located the land to which the notice relates."

14. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 14

Provision	Amendment	
	omit	substitute
Sections 8(2), 9(2), 11(2), 12(2), 14(5), 16(3), 18(3) and 23	"Penalty: \$5,000"	"Penalty: \$20,000"
Section 13(2)	"Penalty: \$2,000"	"Penalty: \$8,000"
Sections 17(2) and 21(2)	"Penalty: \$2,000"	"Penalty: \$8,000"
Section 27(b)	"\$1,000"	"\$4,000"