

Serial 46
Weeds Management Legislation Amendment Bill 2022
Ms Lawler

A Bill for an Act to amend the *Weeds Management Act 2001* and the *Weeds Management Regulations 2006*

NORTHERN TERRITORY OF AUSTRALIA

WEEDS MANAGEMENT LEGISLATION AMENDMENT ACT 2022

Act No. [] of 2022

Table of provisions

Part 1	Preliminary matters	
1	Short title	1
2	Commencement	1
Part 2	Amendment of Weeds Management Act 2001	
3	Act amended	1
4	Section 3 amended (Purpose).....	2
5	Section 4 amended (Definitions).....	2
6	Section 5A inserted	3
	5A Application of Criminal Code	
7	Section 7 replaced.....	3
	7 Declared weeds and potential weeds	
8	Section 8 amended (Designated weed disposal areas).....	4
9	Section 9 replaced.....	5
	9 General duties for potential weeds	
	9A Offence to fail to comply with duty in respect of transport of potential weeds	
	9B Offence to fail to comply with duty in respect of equipment containing potential weeds	
	9C General duties of owner or occupier of land for potential weeds	
	9D Offence to fail to comply with duty in respect of potential weeds on land	
	9E General duties for declared weeds	
	9F Offence to fail to comply with duty in respect of use of declared weeds	
	9G Offence to fail to comply with duty in respect of transport of declared weeds	
	9H Offence to spread declared weeds by animals or vehicles	
	9J Offence to supply product containing declared weeds	
	9K General duties of owner or occupier of land for declared weeds	
	9L Offence to fail to comply with duty in respect of declared weeds on land	
10	Section 11 amended (Approval of weed management plans)	14
11	Section 12 amended (Review of weed management plans).....	15
12	Part 3, Division 3 replaced.....	16
	Division 3 Enforcement	

	14	Contravention of weed management plan	
	14A	Remedial weed management plan	
	14B	Offences related to weed management plans and remedial weed management plans	
13		Section 15 amended (Emergency weed management plans)	19
14		Section 15A and Part 3, Divisions 5 and 6 inserted	20
	15A	Offences related to emergency weed management plans	
		Division 5 Weed control notice	
	15B	Weed control notice	
	15C	Offence to contravene weed control notice	
		Division 6 Weed management works	
	15D	Power to carry out works	
	15E	Engaging persons to carry out works	
	15F	Cost of weed management works	
15		Section 16 amended (Weed advisory committees)	23
16		Section 20 replaced	23
	20	Offence for weed advisory committee member to disclose certain information	
17		Section 21 amended (Quarantine areas).....	24
18		Sections 21A and 21B inserted	25
	21A	Restrictions attached to land in quarantine areas	
	21B	Offence related to quarantine areas	
19		Section 22A inserted	26
	22A	Offence related to access permits	
20		Section 23 amended (Cleaning areas)	27
21		Sections 23A and 23B inserted	27
	23A	Restrictions attached to land in cleaning areas	
	23B	Offence to contravene cleaning area rules	
22		Section 24 amended (Weed management officers).....	28
23		Section 25 amended (Authorised persons).....	29
24		Sections 26 and 27 replaced	30
	25A	Return of identity card	
	26	Obstruction of officers and authorised persons	
	27	Misleading information	
25		Section 28 amended (Powers of officers).....	32
26		Sections 28A, 28B, 28C, 28D and 28E and Part 6A inserted	34
	28A	Powers of officers to enter land	
	28B	Reasonable assistance to be given to officers	
	28C	Duty of officer in relation to seized thing	
	28D	Forfeiture of seized thing	
	28E	Offence to contravene order or requirement	
		Part 6A Permits to use weeds	
	28F	Permits to use declared weed or potential weed	
	28G	Minister may require bond for permit to use declared weed	
	28H	Holder to carry permit	
	28J	Variation, revocation and renewal of permit on application	
	28K	Variation and revocation by Minister	
	28L	Offence to contravene permit	



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2022

An Act to amend the *Weeds Management Act 2001* and the *Weeds Management Regulations 2006*

[Assented to [] 2022]
[Introduced [] 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Weeds Management Legislation Amendment Act 2022*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 17 March 2024, it commences on that day.

Part 2 Amendment of Weeds Management Act 2001

3 Act amended

This Part amends the *Weeds Management Act 2001*.

4 Section 3 amended (Purpose)

Section 3(a)

omit, insert

- (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

5 Section 4 amended (Definitions)

(1) Section 4

insert

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

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

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

(2) Section 4, definition **permit**

omit

30

insert

28F

(3) Section 4, definition **remedial weed management plan**, after "approved"

insert

by the Minister or prepared by the Minister

(4) Section 4, at the end

insert

Note for section 4

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

6 Section 5A inserted

After section 5

insert

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.

7 Section 7 replaced

Section 7

repeal, insert

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 Section 8 amended (Designated weed disposal areas)

- (1) Section 8, before "The"
insert
- (1)
- (2) Section 8, before "potential"
insert
declared weeds or
- (3) Section 8, at the end
insert
- (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.

9 Section 9 replaced

Section 9

repeal, insert

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).

10 Section 11 amended (Approval of weed management plans)

(1) Section 11(1)

omit, insert

(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) Section 11(3)

omit, insert

(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.

11 Section 12 amended (Review of weed management plans)

(1) Section 12(1) and (2)

omit, insert

(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.

(2) Section 12(4)

omit, insert

(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.

12 Part 3, Division 3 replaced

Part 3, Division 3

repeal, insert

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).

13 Section 15 amended (Emergency weed management plans)

- (1) Section 15(1)
- omit*
- declare a plan to be
- insert*
- approve
- (2) Section 15(5) and (6)
- omit*

14 Section 15A and Part 3, Divisions 5 and 6 inserted

After section 15, in Part 3

insert

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.

15 Section 16 amended (Weed advisory committees)

- (1) Section 16(1), after "areas"
insert
of the Territory, for all of the Territory
- (2) Section 16(4)
omit
3 years
insert
a period not exceeding 3 years specified in the instrument of appointment

16 Section 20 replaced

Section 20
repeal, insert

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).

17 Section 21 amended (Quarantine areas)

Section 21(3) and (4)

omit, insert

- (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.

18 Sections 21A and 21B inserted

After section 21

insert

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).

19 Section 22A inserted

After section 22

insert

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).

20 Section 23 amended (Cleaning areas)

- (1) Section 23(2)
- omit*
- on
- insert*
- in
- (2) Section 23(3) and (4)
- omit, insert*
- (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.

21 Sections 23A and 23B inserted

After section 23, in Part 5

insert

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).

22 Section 24 amended (Weed management officers)

- (1) Section 24(1)

omit, insert

- (1) The Minister may appoint a public sector employee to be a weed management officer.

- (2) Section 24(2)

omit, insert

- (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) Section 24(4)

omit

he or she is an employee, within the meaning of the *Public Sector Employment and Management Act 1993*

insert

the officer is a public sector employee

(4) Section 24(5)

omit

23 Section 25 amended (Authorised persons)

(1) Section 25(2)

omit

his or her

insert

the authorised person's

(2) Section 25(3)

omit, insert

(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.

24 Sections 26 and 27 replaced

Sections 26 and 27

repeal, insert

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.

25 Section 28 amended (Powers of officers)

- (1) Section 28(1)(a) and (b)

omit, insert

- (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;

- (2) Section 28(1)(f)

omit

gut.

insert

gut;

(3) After section 28(1)(f)

insert

- (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.

26 Sections 28A, 28B, 28C, 28D and 28E and Part 6A inserted

After section 28, in Part 6

insert

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).

27 Section 29 amended (Notification of presence of plants or weeds)

- (1) Section 29(2)
omit
and in a newspaper circulating in the Territory
- (2) After section 29(2)
insert
- (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) Section 29(3)
omit
this section
insert
subsection (1) or (2)
- (4) Section 29(4) and (5)
omit

28 Sections 30, 31 and 32 replaced

Sections 30, 31 and 32

repeal, insert

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).

29 Sections 39A, 39B and 39C inserted

After section 39

insert

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.

30 Section 40 amended (Regulations)

- (1) Section 40(2), after "prescribe"
insert
the following
- (2) Section 40(2)(a), after "officers"
insert
or the Minister
- (3) Section 40(2)(e) and (f)
omit, insert
- (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.

31 Part 8 inserted

After section 42

insert

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.

32 Act further amended

The Schedule has effect.

Part 3 Amendment of Weeds Management Regulations 2006**33 Regulations amended**

This Part amends the *Weeds Management Regulations 2006*.

34 Regulation 2 amended (Definitions)

Regulation 2, definition ***prescribed amount***, paragraph (b)

omit, insert

(b) for an offence specified in the Schedule, Part 2, column 2:

- (i) if the infringement notice is served on an individual – the amount specified opposite the offence provision in column 3; or
- (ii) if the infringement notice is served on a body corporate – 5 times the amount specified opposite the offence provision in column 3.

35 Schedule (Infringement offences and prescribed amounts) amended

Schedule, Parts 1 and 2

repeal, insert

Part 1**1 Sections 15C(3) and 21B(2)**

Note for clause 1

Each offence listed above is an environmental offence level 3.

2 Sections 9A(3), 9D(4), 9G(3), 9L(4) and (5), 14B(4), (5) and (6), 15A(3), 22A(3), 23B(1), 28L(3) and 30(1)

Note for clause 2

Each offence listed above is an environmental offence level 4.

Part 2

Column 1	Column 2	Column 3
Item Number	Offence provision	Prescribed amount
1	Section 25A(1)	1 penalty unit
2	Section 25A(2)	1 penalty unit
3	Section 28E(1)	4 penalty units
4	Section 28E(2)	4 penalty units

Part 4 Repeal of Act

36 Repeal of Act

This Act is repealed on the day after it commences.

Schedule Weeds Management Act 2001 further amended

section 32

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 6(1)	his or her	the Minister's
section 10(1)	a plan as	
section 10(2)(d), after "and"		any
section 18(3)(c)	his or her	their
section 19(1)	his or her	the member's
section 19(2)(a)	he or she (<i>all references</i>)	the member
section 33(a)	notice	order