

NORTHERN TERRITORY OF AUSTRALIA

PLANT HEALTH REGULATIONS

Subordinate Legislation No. 20 of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 20 of 2011*

Plant Health Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Plant Health Act*.

Dated 10 May 2011

T. I. PAULING
Administrator

By His Honour's Command

C. B. Burns
Minister for Education and Training
acting for
Minister for Primary Industry, Fisheries and Resources

* Notified in the *Northern Territory Government Gazette* on 18 May 2011.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Plant Health Regulations*.

2 Commencement

These Regulations commence on the commencement of the *Plant Health Act 2008*.

3 Definitions

In these Regulations:

approved inspection means an inspection approved under regulation 40.

approved test means a test approved under regulation 40.

approved treatment means a treatment approved under regulation 40.

bare-rooted, in relation to a plant, means the plant has no soil on or around its roots.

compost means a mixture of one or both of following:

- (a) decaying organic matter;
- (b) decayed organic matter.

corresponding law means a law specified in regulation 29.

government certificate means:

- (a) an inspection certificate; or
- (b) any other document (whether called certificate or not) made by an official under a law of another country, a State or another Territory certifying the matters specified in the document.

infringement notice, see regulation 31.

infringement notice offence, see regulation 30(1).

introduction, of plants into the Territory, includes the importation or transportation of plants into the Territory (whether from another country, a State or another Territory).

nursery stock means a plant that is grown for production of stock for planting elsewhere (including, for example, as household plants) or for sale.

permit for introduction means a permit issued under regulation 36.

PEZ, see regulation 17(7).

place of origin, for a plant to be introduced into the Territory, means the address of the place in which the plant was last grown before its transportation to the Territory.

potting mix means a growing medium for plants that is composed of organic or inorganic components (or both), and includes sand, perlite, vermiculite, peat, woodchip and pine bark, but not soil.

prescribed amount, see regulation 30(2).

related scheme, for an assurance certificate, means the scheme under which the certificate is made.

sand means a naturally occurring granular material that:

- (a) is composed of worn, disintegrated or eroded rock and mineral particles; and
- (b) does not include any soil or organic matter.

Examples

1 *Washed river sand.*

2 *Deep mined sand.*

soil means the top layer of earth that is composed of rock, mineral particles and organic matter.

turf means a layer of live grass, and includes sods, stolons, runners and roots.

ware potato means potato grown for consumption (rather than as seeds or any other purposes).

4 References to organisms

- (1) In these Regulations, an organism is generally identified in the following order:
- (a) first, its scientific name (or a name that is generally accepted as the synonym of its scientific name);
 - (b) secondly, its common name, or, if it is a pest, either its common name or a condition caused by it (see, for example, Schedule 1).
- (2) To avoid doubt, a reference in these Regulations to a pest includes a reference to the pest in any stage of its life cycle.

Example for subregulation (2)

A reference to a pest includes a reference to the pest as a larva.

Part 2 Control of pests

Division 1 Application of Part

5 Introduction of plants and plant-related materials

- (1) This Part applies in relation to the introduction of plants and plant-related materials into the Territory for section 17 of the Act.

Note for subregulation (1)

Apart from the requirements in these Regulations, any plant or plant-related material being introduced into the Territory from an overseas country must comply with the Quarantine Act 1908 (Cth) and any applicable Commonwealth legislation.

- (2) The offence mentioned in section 17(6) of the Act applies to a contravention of this Part by a person introducing plants or plant-related materials into the Territory.

6 Multiple requirements for plants

If more than one provision applies to a plant under this Part, the operation of one provision does not affect the operation of the other provisions.

Example for regulation 6

Plants of grapevine may be subject to the requirements of regulations 12 and 17.

Division 2 Requirements about particular pests

7 Ants in potting mix or turf

- (1) This regulation applies in relation to the pests specified in the following table:

Table 7.1

| Item | Scientific name | Common name |
|-------------|---|-----------------------|
| 1 | <i>Anoplolepis gracilipes</i> (Fr. Smith) | yellow crazy ant |
| 2 | <i>Linepithema humile</i> (Mayr) | Argentine ant |
| 3 | <i>Solenopsis invicta</i> (Buren) | red imported fire ant |
| 4 | <i>Wasmannia auropunctata</i> (Roger) | electric ant |

- (2) A person must not introduce into the Territory a plant that is grown in potting mix unless the plant is accompanied by a government certificate or assurance certificate specifying:
- (a) the plant had been inspected and found to be not infested with the pests before it was transported to the Territory; or
 - (b) the place of origin of the plant is more than 5 km from the boundary of an area infested with any of the pests.
- (3) A person must not introduce turf into the Territory unless it is accompanied by a permit for introduction.

8 Fruit flies – introduction of fruits of declared host plants into Territory

- (1) This regulation applies in relation to the declared host plants of any of the pests specified in the following table:

Table 8.1

| Item | Scientific name | Common name |
|-------------|---------------------------------------|-------------------------|
| 1 | <i>Bactrocera musae</i> (Tryon) | banana fruit fly |
| 2 | <i>Ceratitis capitata</i> (Wiedemann) | Mediterranean fruit fly |

- (2) A person must not introduce into the Territory any declared host plant that consists of or includes fruit unless the plant is accompanied by a government certificate or an assurance certificate specifying:
- (a) the place of origin of the plant is not infested with any of the pests; or
 - (b) the plant is part of a consignment that has been inspected and found to be not infested with the pests; or
 - (c) the plant has undergone an approved treatment for the pests.

9 Fruit flies – introduction of fruits of declared host plants into accredited production places

- (1) This regulation applies in relation to the declared host plants of any of the pests specified in the following table:

Table 9.1

| Item | Scientific name | Common name |
|------|---------------------------------------|------------------------------|
| 1 | <i>Bactrocera aquilonis</i> (May) | Northern Territory fruit fly |
| 2 | <i>Bactrocera cucumis</i> (French) | cucumber fly |
| 3 | <i>Bactrocera musae</i> (Tryon) | banana fruit fly |
| 4 | <i>Bactrocera tryoni</i> (Froggatt) | Queensland fruit fly |
| 5 | <i>Ceratitis capitata</i> (Wiedemann) | Mediterranean fruit fly |

- (2) A person must not introduce into an accredited production place in the Territory a declared host plant that consists of or includes fruit.
- (3) Subregulation (2) does not apply if:
- (a) the plant is:
 - (i) in transit through, and is not to be unloaded at, the accredited production place; and
 - (ii) the plant is packaged and transported in a way that will reasonably prevent the spreading of any of the pests from the plant; or

- (b) the plant is accompanied by a government certificate specifying:
 - (i) the place of origin of the plant is not infested with the pests and the plant is in transit to another place that is not infested with the pests; or
 - (ii) the plant has undergone an approved treatment for the pests; or
- (c) the plant is accompanied by an assurance certificate specifying the plant:
 - (i) is in transit from an accredited production place in the Territory for any of the declared host plants to another accredited production place for any of the declared host plants; or
 - (ii) has undergone an approved treatment for the pests.

10 Melon thrips

- (1) This regulation applies in relation to the declared host plants of the pest *Thrips palmi* Karny (or melon thrips).
- (2) A person must not introduce a declared host plant into a part of the Territory that is:
 - (a) an accredited production place for the plant; or
 - (b) outside a quarantine place for the pest.
- (3) Subregulation (2) does not apply if the plant is accompanied by a government certificate or assurance certificate specifying:
 - (a) one of the following applies:
 - (i) the place of origin of the plant has undergone an approved inspection for the pest and found to be not infested with the pest during the 6 months immediately before the plant was packed for transportation to the Territory;
 - (ii) the place of origin of the plants has undergone an approved inspection for the pest and found to be not infested with the pest and is at least 100 km from the boundary of an area infested with the pest; or

- (b) before the plant is introduced into the part of the Territory mentioned in subregulation (2)(a) or (b), the plant:
 - (i) has been inspected and found to be not infested with the pest; or
 - (ii) has undergone an approved treatment for the pest.

11 Scale insects and sucking insects – nursery stock

- (1) This regulation applies in relation to pests that belong to the Superfamily Coccoidea or Superfamily Aleyrodoidea.
- (2) A person must not introduce into the Territory any nursery stock unless it is accompanied by a government certificate or assurance certificate specifying it has undergone an approved treatment for the pests.

12 Soil borne pests and snails – plants generally

- (1) This regulation applies in relation to the pests specified in Schedule 1.
- (2) A person must not introduce into the Territory a plant unless:
 - (a) the plant is completely free of soil; or
 - (b) it is accompanied by a government certificate specifying it has undergone an approved treatment for the pests; or
 - (c) the following apply:
 - (i) it is grown in a medium (for example, compost or potting mix) that is free of soil and in a container that is free of soil;
 - (ii) if it is grown in compost – the compost was manufactured in accordance with the requirements in Australian Standard AS 4454 as in force from time to time;
 - (iii) if it is grown in potting mix – the potting mix was manufactured in accordance with the requirements in Australian Standard AS 3743 as in force from time to time.

Example for subregulation (2)(a)

Plants that are bulbs and rhizomes must be bare-rooted and otherwise free of soil.

- (3) In addition, if subregulation (2)(a) or (c) applies, the plant must be accompanied by a government certificate or assurance certificate specifying all of the following:
 - (a) the place of origin of the plant is not infested with the pests specified in items 1 and 2 of Schedule 1;
 - (b) the plant has not been grown within:
 - (i) 50 m of a grapevine; and
 - (ii) 20 km of the boundary of an area infested with the pest specified in item 3 of Schedule 1 at that time; and
 - (iii) 25 km of the boundary of an area infested with any of the pests specified in items 4 to 8 of Schedule 1 at that time.
- (4) Subregulation (3)(b)(iii) does not apply if the plant is accompanied by an assurance certificate specifying it has been grown under the related scheme.

13 Western flower thrips

- (1) This regulation applies in relation to the declared host plants of the pest *Frankliniella occidentalis* Pergande (or western flower thrips).
- (2) A person must not introduce into the Territory a declared host plant if any part of the country, State or another Territory from which the plant is introduced was infested with the pest at any time during the 2 years immediately before the introduction.
- (3) Subregulation (2) does not apply if the declared host plant is accompanied by a government certificate or assurance certificate specifying:
 - (a) the plant is part of a consignment of plants that has undergone an approved inspection for the pest and found to be not infested with the pest; or
 - (b) the plant has undergone an approved treatment for the pest; or
 - (c) the place of origin of the plant has been regularly monitored in a way approved in writing by the Chief Inspector for at least 4 weeks before the plant was packed for transportation to the Territory and found not to be infested with the pest.

Division 3 Requirements about particular plants

14 Avocado

- (1) This regulation applies to:
 - (a) the plant *Persea americana* Mill. (or avocado); and
 - (b) the following pests:
 - (i) the pest avocado sunblotch viroid, which causes the disease sunblotch;
 - (ii) the pest *Phytophthora cinnamomi* Rands, which causes the disease top rot or dieback;
 - (iii) the pest *Verticillium dahliae* Kleb, which causes the disease verticillium wilt
- (2) A person must not introduce into the Territory any plant (other than fruit) unless it is accompanied by:
 - (a) a permit for introduction; and
 - (b) a government certificate or assurance certificate specifying:
 - (i) the place of origin of the plant is not infected by any of the diseases; and
 - (ii) for an assurance certificate – the requirements under the related scheme for growing the plant have been met.

15 Banana, plantain and Manila hemp

- (1) This regulation applies to:
 - (a) a plant belonging to the genera *Musa* (including, for example, banana, plantain, and Manila hemp) and *Ensete* (ornamental banana); and
 - (b) the pests specified in Schedule 2.
- (2) A person must not introduce into the Territory a plant (other than fruit) unless:
 - (a) the plant is accompanied by a permit for introduction; and

- (b) one or both of the following apply:
 - (i) the plant consists of or includes a tissue culture grown in a laboratory under a scheme and is accompanied by an assurance certificate specifying it is introduced into the Territory in the container in which it was grown in the laboratory;
 - (ii) the plant was originally grown as a tissue culture and is accompanied by an assurance certificate specifying it has been grown out under the related scheme.
- (3) Despite subregulation (2), a person must not introduce into the Territory a plant that consists of or includes fruit if the place of origin of the plant:
 - (a) is infected by banana black sigatoka; or
 - (b) is within 50 km from the boundary of a place infected by banana black sigatoka.
- (4) A person must not transport from one part of the Territory to another part of the Territory a plant (other than fruit) if it is infested with the pests specified in Schedule 2.

16 Citrus and Fortunella

- (1) This regulation applies to:
 - (a) a plant belonging to the genera *Citrus* and *Fortunella*; and
 - (b) the pest sweet orange stem pitting strain (SOSP) of *Citrus tristeza virus*.
- (2) A person must not introduce into the Territory a plant (other than fruit) unless the plant is accompanied by a government certificate or assurance certificate specifying:
 - (a) the place of origin of the plant:
 - (i) is not infested with the pest; and
 - (ii) is at least 20 km from the boundary of any area infested with the pest during the immediately preceding 2 years; and
 - (b) for an assurance certificate – the requirements of the related scheme have been met in relation to the plant.

17 Grape

- (1) This regulation applies to:
 - (a) a plant belonging to the genus *Vitis*; and
 - (b) the pest *Daktulosphaira vitifoliae* (Fitch) (grape phylloxera).
- (2) A person must not introduce grapevine material into the Territory from another country unless it is accompanied by a permit for introduction.
- (3) A person must not introduce grapevine material (other than grapevine material to which subregulation (4), (5) or (6) applies) into the Territory from a State or another Territory unless:
 - (a) it is accompanied by a permit for introduction; and
 - (b) its place of origin is not within a PIZ or PRZ; and
 - (c) if it consists of or includes cuttings or rootlings – it is accompanied by a government certificate or assurance certificate specifying:
 - (i) the place of origin of the cuttings or rootlings is within a PEZ; and
 - (ii) it has undergone an approved treatment for the pest before being transported to the Territory.
- (4) A person must not introduce a grape product into the Territory from a State or another Territory unless it is accompanied by a government certificate specifying its place of origin is within a PEZ.
- (5) A person must not introduce table grapes into the Territory from a State or another Territory unless:
 - (a) their place of origin is within a PIZ or PRZ and they are accompanied by a permit for introduction; and
 - (b) their place of origin is within a PEZ, PIZ or PRZ and they are accompanied by a government certificate or an assurance certificate specifying:
 - (i) their place of origin is within a PEZ, PIZ or PRZ (as appropriate); and
 - (ii) for a PIZ or PRZ – they have undergone an approved treatment for the pest before being transported to the Territory.

- (6) A person must not introduce wine grapes into the Territory from a State or another Territory unless they are accompanied by a government certificate or an assurance certificate specifying their place of origin is within a PEZ.

- (7) In this regulation:

cuttings means a portion of a grapevine cane that:

- (a) is to be used as a planting material; and
- (b) has not been planted in soil or has not yet developed any roots.

grape product means a product consisting of one or both of the following:

- (a) must (which is the product of crushing grape berries and may include skins, seeds, pulp, stems and leaves);
- (b) fresh unfiltered grape juice (which is the liquid fraction of must).

grapevine material means any part of a plant, including, for example, cuttings, rootlings and grape berries.

PEZ or *Phylloxera Exclusion Zone* means:

- (a) an area in the Territory specified by the Chief Inspector in writing to be an area not infested with the pest; or
- (b) all or part of a State or another Territory specified under a corresponding law to be an area not infested with the pest (whether or not called *Phylloxera Exclusion Zone*).

PIZ or *Phylloxera Infested Zone* means:

- (a) an area in the Territory specified by the Chief Inspector in writing to be an area infested with the pest; or
- (b) all or part of a State or another Territory specified under a corresponding law to be an area infested with the pest (whether or not called *Phylloxera Infested Zone*).

PRZ or *Phylloxera Risk Zone* means:

- (a) an area in the Territory that is neither PEZ nor PIZ; or

- (b) all or part of a State or another Territory that is neither PEZ nor PIZ.

rootlings means any grapevine material that has developed roots, (including callus) and includes original and grafted plants.

18 Maize

- (1) This regulation applies to:
 - (a) a plant belonging to the species *Zea mays* L.; and
 - (b) the pest *Ustilago maydis* (DC.) Cda, which causes the disease boil smut.
- (2) A person must not introduce into the Territory a plant that consists of or includes maize seeds (other than sweet corn) from New South Wales or Queensland unless it is accompanied by a government certificate specifying:
 - (a) it has undergone an approved treatment for the pest; or
 - (b) both of the following:
 - (i) its place of origin is not infected by boil smut;
 - (ii) it was cleaned and packed in premises that have not been used for handling maize seeds that originated from areas infected by boil smut.

19 Papaya

- (1) This regulation applies to:
 - (a) a plant belonging to the species *Carica papaya* L.; and
 - (b) the following pests:
 - (i) *Asperisporium caricae* (Speg.) Maubl, which causes the disease papaya black spot;
 - (ii) papaya strain of the *Papaya ring spot virus*, which causes the disease papaya ring spot.
- (2) A person must not introduce into the Territory a plant whose place of origin is infected by any of the diseases unless it is accompanied by a government certificate or assurance certificate specifying:
 - (a) it has undergone an approved inspection for the pests and found to be free of the symptoms of the pests; and

- (b) if its place of origin is infected by papaya black spot – it has undergone an approved treatment for the pest *Asperisporium caricae* (Speg.) Maubl.

20 Passionfruit

- (1) This regulation applies to:
 - (a) a plant belonging to the genus *Passiflora*; and
 - (b) the pest *Passionfruit woodiness virus*.
- (2) A person must not introduce to the Territory a plant (other than fruit) unless it is accompanied by a government certificate or assurance certificate specifying:
 - (a) its place of origin is not infested with the pest; and
 - (b) it has undergone an approved inspection for the pest and found not to be infested with the pest; and
 - (c) for an assurance certificate – the requirements under the related scheme for growing the plant have been met.

21 Peanut

- (1) This regulation applies to:
 - (a) a plant belonging to the species *Arachis hypogaea* L. consisting only of seeds; and
 - (b) the pest *Peanut mottle virus*, which causes the disease mottle.
- (2) A person must not introduce into the Territory a plant unless it is accompanied by a government certificate or assurance certificate specifying its place of origin is not infected by mottle.

22 Potato

- (1) This regulation applies to:
 - (a) a plant belonging to the genus *Solanum tuberosum* L.; and
 - (b) the pest *Globodera rostochiensis* (Woll.) Skarbilovich (or potato cyst nematode).
- (2) A person must not introduce into the Territory a plant that consists of or includes seed potatoes unless:
 - (a) it is accompanied by a permit for introduction; and

- (b) it is accompanied by a government certificate or assurance certificate specifying its place of origin is not:
 - (i) infested with, or within 20 km of the boundary of an area infested with, the pest; or
 - (ii) linked to an area that was infested with the pest (see subregulation (5)); and
- (c) the government certificate or assurance certificate also specifies that the plant:
 - (i) has undergone an approved test for the pest and found to be not infested with the pest; and
 - (ii) has undergone an approved treatment for the pest.
- (3) A person must not introduce into the Territory a plant that consists of or includes ware potatoes unless:
 - (a) its place of origin is not infested with the pest and is not within 20 km of the boundary of an area infested with the pest; and
 - (b) if its place of origin is linked to an area infested with the pest at the time of the introduction – the plant is accompanied by a permit for introduction; and
 - (c) the plant has undergone an approved treatment for the pest.
- (4) A person must not introduce into the Territory a plant that is intended for propagation (but does not consist of or include seed potato) unless:
 - (a) it was grown as a tissue culture in a laboratory registered under a scheme; and
 - (b) it is in the original sealed container; and
 - (c) it is accompanied by a permit for introduction.
- (5) For subregulation (2)(b)(ii), a place is linked to an area infested with the pest if the place has shared ownership, shared equipment, shared seed, shared boundaries or shared drainage with that area.

23 Soybean

- (1) This regulation applies to a plant belonging to the species *Glycine max* (L.) Merr for the control of the pest *Phytophthora sojae* Kaufmann & Gerdemann, which causes phytophthora rot.

- (2) A person must not introduce into the Territory a plant that consists of or includes seed for sowing unless it is accompanied by a permit for introduction.

Division 4 Requirements about particular plant-related materials

24 Grapevine related equipment

- (1) This regulation applies to any equipment used in the production of grapes and grapevines in a vineyard.
- (2) A person must not introduce into the Territory any equipment unless it is accompanied by:
- (a) a permit for introduction; and
 - (b) a government certificate specifying:
 - (i) it has undergone an approved treatment for the pest to which regulation 17 applies before its transportation to the Territory; or
 - (ii) it has been located continuously in a PEZ, as defined in regulation 17(7), during the 2 weeks immediately before its transportation to the Territory.
- (3) In this regulation:

equipment, used in the production of grapes and grapevines in a vineyard, includes any tools, machinery and other things used for the production.

Examples of equipment

Grape harvesters, hand tools, grape bins and containers, and used trellis posts.

25 Soil, compost and potting mix

- (1) This regulation applies in relation to any declared pest that may be introduced in soil, compost or potting mix, including a pest specified in regulation 7(1) or Schedule 1.
- (2) A person must not introduce soil into the Territory unless it is accompanied by a permit for introduction.
- (3) Subregulation (2) does not apply if:
- (a) soil is introduced into the Territory because it is attached to ware potatoes introduced into the Territory under regulation 22; or

- (b) both of the following apply:
 - (i) soil is introduced into the Territory through dust attached to the surface of a vehicle, equipment or footwear entering into the Territory;
 - (ii) the person who has control over the vehicle, equipment or footwear does not intend to introduce the soil into the Territory and has exercised reasonable caution in preventing the introduction.
- (4) A person must not introduce compost or potting mix that is packaged or in bulk into the Territory (other than compost or potting mix in which plants are being grown) unless:
 - (a) it is accompanied by a government certificate specifying it was manufactured in accordance with the requirements in the relevant Australian Standard; or
 - (b) it was manufactured in accordance with the requirements in the relevant Australian Standard and is clearly labelled as such.
- (5) In this regulation:

relevant Australian Standard means:

 - (a) for compost – Australian Standard AS 4454 as in force from time to time; and
 - (b) for potting mix – Australian Standard AS 3743 as in force from time to time.

26 Other plant-related materials

- (1) This regulation applies to any of the following plant-related materials:
 - (a) packaging;
 - (b) pallets;
 - (c) plant containers;
 - (d) agricultural equipment (including, for example, mango harvesting equipment and tillage equipment);
 - (e) earth moving equipment.

- (2) A person must not introduce into the Territory any plant-related material unless:
- (a) it is new; or
 - (b) if it is not new:
 - (i) it has been cleaned and is visibly free of soil, plant residues, pests and any other matter that may transport pests; or
 - (ii) it is accompanied by a permit for introduction; or
 - (iii) it is accompanied by a government certificate specifying that, at the time it was consigned for transportation to the Territory, it had been cleaned and was visibly free of soil, plant residues, pests and any other matter that may transport pests; or
 - (iv) it is accompanied by a government certificate specifying it has been treated by a method approved in writing by the Chief Inspector for this regulation.
- (3) For subregulation (2), agricultural equipment or earth moving equipment is not new even if it has only been used for field tests or factory trials.

Part 3 Certification of plant health

27 Government certificate and assurance certificate

A government certificate or assurance certificate required to accompany a plant or plant-related material under these Regulations must be a certificate that is currently in force.

28 Matters specified in government certificate or assurance certificate

- (1) If a government certificate or assurance certificate is required by these Regulations to accompany a plant or plant-related material, the certificate must specify the name of each plant (together with its genus and species) to which the certificate relates.
- (2) Despite subregulation (1) and other provisions of these Regulations, if a government certificate or assurance certificate accompanies a consignment of plants or plant-related materials, the certificate is taken to accompany each of the plants or materials if it specifies the name of the genus and species shared by all the plants to which the consignment relates.

- (3) For subregulations (1) and (2), a name required to be specified in the certificate may be specified in a document attached to the certificate.
- (4) In addition, for section 36(3) of the Act, in giving an inspection certificate for a thing or place, an inspector may specify the result of the inspection and any examination and treatment carried out in connection with the inspection in the certificate.

29 Corresponding laws

Each of the following is a corresponding law for section 45(3) of the Act:

Pest Plants and Animals Act 2005 (ACT)

Plant Diseases Act 2002 (ACT)

Plant Diseases Act 1924 (NSW)

Plant Protection Act 1989 (Qld)

Plant Health Act 2009 (SA)

Plant Quarantine Act 1997 (Tas)

Plant Health and Plant Products Act 1995 (Vic)

Biosecurity and Agriculture Management Act 2007 (WA)

Plant Diseases Act 1914 (WA)

Part 4 Infringement notice and infringement notice offence

30 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 3.
- (2) The ***prescribed amount*** payable for an infringement notice offence is the amount specified opposite the offence in Schedule 3.

31 When infringement notice may be given

If an inspector reasonably believes a person has committed an infringement notice offence, the inspector may give a notice (an ***infringement notice***) to the person.

32 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

33 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

34 Withdrawal of infringement notice

- (1) The Chief Inspector may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

35 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 5 Administrative matters**36 Permit for introduction**

- (1) For these Regulations, the Chief Inspector may issue to a person a permit for introduction into the Territory from a State or another Territory of specified plants or plant-related materials.

- (2) The Chief Inspector may do so only if satisfied the introduction will not expose the Territory to the risk of infestation of any declared pest.
- (3) A permit for introduction required under these Regulations for a specified plant or plant-related material must be a permit currently in force.

37 Inspector's powers for section 17 of the Act

- (1) For section 17 of the Act, a *Gazette* notice under that section or Parts 1 and 2 of these Regulations, an inspector may require a person introducing a thing into the Territory to do any of the following:
 - (a) present the thing to an inspector for examination;
 - (b) present a government certificate, assurance certificate or permit for introduction required by the notice or these Regulations to accompany the thing.
- (2) The inspector may exercise the power under subregulation (1) in a way decided by the inspector (including, for example, by requiring the presentation of a government certificate by email or in another specified electronic form).

38 Labelling of plants and plant products

- (1) This regulation applies to any of the following that are consigned to be transported to the Territory for sale in the Territory:
 - (a) plants that are nursery stock;
 - (b) plants intended to be used for propagation;
 - (c) plants that are consigned as farm produce (***plant products***), other than any processed or manufactured goods derived from plants.
- (2) When the plants or plant products are introduced into the Territory, a label meeting the requirements of subregulations (3) and (4) must be attached to:
 - (a) the packaging for the plants or plant products; or
 - (b) the plants or plant products if they do not have any packaging.
- (3) The following information must be included in the label:
 - (a) a description of the plants or plant products;

- (b) the name and address of the consignor, grower, packer or consignee for the plants or plant products;
 - (c) the place where the plants, or plants used in making the plant products, were grown;
 - (d) the date the plants or plant products were packed for transportation to the Territory;
 - (e) if the plants or plant products have been produced under a plant health assurance scheme – the information required by the scheme.
- (4) In addition, the information must be:
- (a) in English; and
 - (b) clear and legible; and
 - (c) in lettering no less than 5 mm in height.
- (5) A person who consigns plants or plant products to be transported to the Territory as mentioned in subregulation (1) commits an offence if subregulation (2), (3) or (4) is contravened in relation to the plants or plant products.
- Maximum penalty: 200 penalty units.
- (6) An offence against subregulation (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.
- (8) In this regulation:
- packaging** includes any container (for example, crate and carton) and any kind of covering for individual plants, plant products or a collection of plants or plant products.

39 Recognised assurance schemes and assurance certificates

- (1) This regulation is made for section 45(2) of the Act.
- (2) If the Chief Inspector has entered into an agreement under section 45(1) of the Act for the recognition of a document mentioned in section 45(1)(b) of the Act:
 - (a) the document has effect as if it were an assurance certificate for these Regulations; and

- (b) a scheme (however it is called) that is in the nature of a plant health assurance scheme under which the document is issued has effect as if it were a plant health assurance scheme for these Regulations.

40 Approved inspection, test and treatment for pests

- (1) For these Regulations, the Chief Inspector may, in writing, approve the way in which any of the following is to be carried out:
 - (a) a specified inspection for the detection of the presence of a specified pest;
 - (b) a specified test for the detection of the presence of a specified pest;
 - (c) a specified treatment for the control of a specified pest.
- (2) However, the Chief Inspector must be satisfied about one or more of the following before doing so:
 - (a) the inspection, test or treatment is specified in a code, standard or protocol (whatever it is called) as currently in force for detecting or controlling (as appropriate) the pest;
 - (b) the inspection, test or treatment is being used for a law of the Commonwealth, a State or another Territory for detecting or controlling (as appropriate) the pest;
 - (c) the inspection, test or treatment involves the use of a product in a way that corresponds with the instructions specified by the manufacturer of the product for detecting or controlling (as appropriate) the pest in a document accompanying the product;
 - (d) the inspection, test or treatment involves the use of a product in a way that corresponds with a provision in or under a law of the Commonwealth, a State or another Territory for detecting or controlling (as appropriate) the pest;
 - (e) the inspection, test or treatment reasonably corresponds with generally accepted scientific view about detecting or controlling (as appropriate) the pest.

Example for subregulation (2)(a) and (b)

A treatment specified under or for the Agricultural and Veterinary Chemicals Code Act 1994 (Cth).

Schedule 1 Soil borne pests and snails

regulation 12(1)

| Item | Scientific name of pest | Common name of, or condition caused by, pest |
|------|---|--|
| 1 | <i>Daktulosphaira vitifoliae</i> (Fitch) | grape phylloxera |
| 2 | <i>Globodera rostochiensis</i> (Woll.) Skarbilovich | potato cyst nematode |
| 3 | <i>Phytophthora cinnamomi</i> Rands | top rot or die back |
| 4 | <i>Cantareus apertus</i> (Born) Schultes | green snail |
| 5 | <i>Cernuella virgata</i> (Da Costa) | vineyard snail or common white snail |
| 6 | <i>Cochlicella acuta</i> (Müller) | pointed snail or conical snail |
| 7 | <i>Prietocella barbara</i> (Linnaeus) | small pointed snail or small conical snail |
| 8 | <i>Theba pisana</i> (Müller) | white Italian snail |
| 9 | <i>Fusarium oxysporum</i> f.sp. <i>cucumerinum</i> J.H. Owen | cucumber fusarium wilt |
| 10 | <i>Fusarium oxysporum</i> f. sp. <i>lycopersici</i> W. C. Snyder & H. N. Hansen | tomato fusarium wilt |
| 11 | <i>Fusarium oxysporum</i> f.sp. <i>melonis</i> (Leach & Currence) Snyder & Hansen | rockmelon fusarium wilt |
| 12 | <i>Fusarium oxysporum</i> f.sp. <i>niveum</i> (E.F. Sm.) Snyder & H.N. Hansen | watermelon fusarium wilt |
| 13 | <i>Fusarium oxysporum</i> f. sp. <i>passiflorae</i> W.L. Gordon | passionfruit fusarium wilt |

| | | |
|----|--|----------------------|
| 14 | <i>Fusarium oxysporum</i> f.sp. <i>pisi</i> (Linford) Snyder & Hansen | pea fusarium wilt |
| 15 | <i>Fusarium oxysporum</i> f.sp. <i>vasinfectum</i> (G.F. Atk.) W.C. Snyder & H.N. Hansen | cotton fusarium wilt |

Schedule 2 Pests relating to Musa or Ensete

regulation 15(1)(b)

| Scientific name of pest | Common name of, or condition caused by, pest |
|--|---|
| <i>Banana bract mosaic virus</i> | banana bract mosaic |
| <i>Banana streak virus</i> | banana streak |
| <i>Banana bunchy top virus</i> | banana bunchy top |
| <i>Cosmopolites sordidus</i> (Germar) | banana weevil borer or banana root weevil |
| <i>Cucumber mosaic virus</i> | banana infectious chlorosis |
| <i>Erwinia chrysanthemi</i> Burkholder, McFadden & Dimock | banana corm and rhizome rot |
| <i>Fusarium oxysporum</i> Schlecht. ex Fries f.sp. <i>cubense</i> (E.F. Smith) Snyder & Hansen. Race 1, Race 2, Race 4 and Tropical Race 4 | banana fusarium wilt |
| <i>Guignardia musae</i> Racib | banana freckle |
| <i>Helicotylenchus multicinctus</i> (Cobb) Golden | spiral nematode |
| <i>Mycosphaerella eumusae</i> Crous & Mour | eumusae leaf spot |
| <i>Mycosphaerella fijiensis</i> M. Morelet | banana black sigatoka |
| <i>Radopholus similis</i> (Cobb) Thorne | burrowing nematode or banana root nematode |
| <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> biovar 1 or race 2 | banana bacterial wilt or bugtok or moko disease of banana |

Schedule 3 Infringement notice offences and prescribed amounts

regulation 30(2)

| Provision | Prescribed amount in penalty units |
|----------------------|---|
| section 25(3) of Act | 3 |
| section 27(3) of Act | 2 |
| section 28(3) of Act | 2 |
| section 37(6) of Act | 3 |