NORTHERN TERRITORY OF AUSTRALIA

PLANT DISEASES CONTROL ACT

As in force at 1 December 2000

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 December 2000. Any amendments that commence after that date are not included.

PLANT DISEASES CONTROL ACT

An Act relating to the prevention and eradication of diseases in plants

1 Short title

This Act may be cited as the *Plant Diseases Control Act*.

2 Commencement

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

3 Repeal

The Acts specified in the Schedule are repealed.

4 Savings

All appointments of inspectors, declarations of quarantine areas or notifiable diseases or prohibitions relating to the importation or introduction of any plants, made under any of the Acts repealed by section 3, which are in force at the date of the commencement of this Act, are appointments, declarations or prohibitions for the purposes of this Act as if they had been made under this Act.

5 Act binds Crown

This Act binds the Crown.

6 Definitions

In this Act, unless the contrary intention appears:

Chief Inspector means the Chief Inspector of Plants and Diseases appointed under section 7(1) and includes a person appointed under section 7A to act as the Chief Inspector or while so acting.

disease includes:

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

(b) an abnormality or disorder of, or injury to, fruit or a plant caused by a pest.

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

host fruit means fruit of a species that is susceptible to disease or a pest.

host plant means a plant of a species that is susceptible to disease or a pest.

inspector includes the Chief Inspector.

orchard means any place where host plants are grown or propagated.

owner includes an occupier, manager or superintendent and, in relation to a vehicle, train, aircraft, vessel, carriage or conveyance, the person in charge thereof.

packaging means any covering, container, package, case, box, bag, wrapping or packing of any material or description that is being or has been used to cover or contain fruit or a plant.

pest means any organism or micro-organism that the Minister, by notice in the *Gazette*, declares to be a pest for the purposes of this Act.

plant means:

(a) any, or any part of, a tree, vine, flower, shrub, vegetable or other vegetation; and

(b) any material, whether alive or dead, used for the propagation of the items referred to in paragraph (a),

and includes a host plant and sawn or dressed timber.

quarantine area means an area declared under this Act to be a quarantine area.

7 Appointment of Chief Inspector, inspectors

(1) The Minister may appoint a person to be Chief Inspector of Plants and Diseases.

(2) The Chief Inspector may appoint a person to be an inspector.

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

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

(4) An inspector shall be issued with a form of identification approved by the Chief Inspector.

7A Acting Chief Inspector

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

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

7B Delegation

(1) The Chief Inspector may, in writing, delegate to a person any of the Chief Inspector's powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Chief Inspector.

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

8 Prohibition of importation

(1) The Minister may, by notice in the *Gazette*, prohibit, either absolutely or subject to compliance with conditions specified in the notice, the importation or introduction into or possession in, the Territory or any part of the Territory of:

(a) all or part of a fruit or plant affected by disease or a pest;

(b) all or part of:

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

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

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

(c) all or part of:

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

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

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

(d) packaging in which any fruit or plant affected by a pest or disease has been or is contained or packed, or any goods with which the packaging, fruit or plant has come in contact.

(2) A person shall not contravene or fail to comply with a requirement contained in a notice under subsection (1).

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

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

(a) the fruit, plant, packaging or goods the subject of the offence (if it has not already been destroyed pursuant to section 14(4)); or

(b) the proceeds from the sale or other disposal under section 14A of any fruit, plant or packaging the subject of the offence.

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

9 Specification of places of introduction

(1) The Minister may, by notice in the *Gazette*, specify a place as a place through which host fruit, host plants or packaging may be introduced into the Territory.

(2) A person shall not at any time after a place has been specified under subsection (1) introduce any host fruit, host plants or packaging into the Territory except through that place.

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

10 Quarantine stations

The Minister may, by notice in the *Gazette*, declare any place or area to be a quarantine station in which:

(a) fruit, plants or packaging may, subject to this Act, be subjected to any examination, disinfection or disinfestation or be otherwise treated, disposed of or destroyed; and

(b) fruit and plants may be grown for the purposes of this Act.

11 Quarantine areas

(1) The Minister may, by notice in the *Gazette*:

(a) declare all or a part of the Territory to be a quarantine area either in respect of all pests and diseases or such pests and diseases as are specified in the notice;

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

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

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

specified in the notice or of any packaging or other thing that, in the Minister's opinion, may transmit a pest or disease;

(c) prohibit or regulate the movement within a quarantine area of all or part of:

(i) a fruit or plant; or

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

specified in the notice, or prohibit or regulate the movement outside a quarantine area of a fruit or plant or a member of a category of fruit or plant from within the quarantine area;

(d) require an owner of land within a quarantine area to take such measures as are specified in the notice for the control or eradication of a pest or disease specified in the notice; and

(e) prohibit the planting and propagation of plants, or plants of a species or of a category of fruit or plant specified in the notice, within a quarantine area during the period specified in the notice.

(2) A person shall not contravene or fail to comply with a requirement contained in a notice under subsection (1).

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

11A Accredited production areas

(1) The Minister may, by notice in the *Gazette*,

(a) declare an area specified in the notice that is, in the Minister's opinion, free of specified diseases or pests, to be an accredited production area; and

(b) declare that a word or phrase specified in the notice may be used in the advertising, packaging or sale of fruit or plants grown in an accredited production area.

(2) A person shall not, in the advertising, packaging or sale of fruit or plants grown otherwise than in an accredited production area, use:

(a) a word or phrase specified in a notice referred to in subsection (1); or

(b) a word or phrase,

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

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

12 Notifiable pests or diseases

(1) The Minister may, by notice in the *Gazette*, declare a pest or disease specified in the notice to be a notifiable pest or disease.

(2) A person who discovers any fruit or plant affected by a notifiable pest or disease, shall:

(a) immediately notify the Chief Inspector of that discovery; and

(b) furnish to the Chief Inspector such information in relation to that discovery as the Chief Inspector may require.

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

(3) The owner of an orchard in which there is any fruit or plant affected by a notifiable pest or disease, shall be deemed to have discovered that the fruit or plant was so affected unless the contrary is proved.

13 Requirement for treatment

(1) The Minister may, by notice in the *Gazette*, require the owner of an orchard to apply to all host plants in that orchard such treatment and measures as the Minister considers necessary to prevent the outbreak or spread of a pest or disease specified in the notice.

(2) A person shall not contravene or fail to comply with a requirement contained in a notice under subsection (1).

Penalty: $8,000 or imprisonment for 6 months.

13A Disposal of diseased plant material, fruit, &c.

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

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

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

14 Powers of inspectors

(1) An inspector may, with or without assistance:

(a) enter any land, premises, vehicle, train, aircraft, vessel, carriage or conveyance on or in which there is, or the inspector suspects that there is, any fruit, plant or packaging:

(i) affected by a pest or disease;

(ii) imported or introduced into the Territory; or

(iii) origination from, or having been in, a place in the Territory where, in the inspector's opinion, a pest of disease which may affect the fruit, plant, or packaging is present;

(b) search for any such fruit, plant or packaging;

(c) open, if necessary by force, any container found thereon or therein which he believes, on reasonable grounds, may contain any such fruit, plant or packaging; and

(d) examine any fruit, plant or packaging found for the purposes of determining whether it is affected by a pest or disease or for the purpose of identifying it.

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

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

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

(2) An inspector shall, prior to the exercise of his powers under subsection (1), produce the form of identification referred to in section 7(4) to the owner of the land, premises, vehicle, train, aircraft, vessel, carriage or conveyance entered pursuant to subsection (1) who requests to see it.

(3) An inspector may disinfect, disinfest or treat, or cause to be disinfected or treated, any fruit or plant referred to in subsection (1), or any packaging or goods in or with which that fruit or plant has been packed, that he finds to be or is reasonably likely to be, affected by a pest or disease.

(4) An inspector may remove or destroy, or cause to be removed or destroyed, or direct the owner of or person in possession of any fruit, plant, or premises to remove or destroy, any fruit, plant, packaging or goods that the inspector finds to be affected by any pest or disease, and any packaging or goods in or with which any fruit or plant so affected has been packed.

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

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

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

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

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

(5) A person shall not contravene or fail to comply with a direction under subsection (4) or (4A)(b).

Penalty: $20,000 or imprisonment for 12 months

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

14A Disposal of seized perishable articles

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

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

(a) a decision is made not to proceed against any person for an offence against section 8(2) or 9(2) in respect of the relevant fruit, plant or packaging;

(b) where no such proceedings are commenced within a period of one month after the seizure of the fruit, plant or packaging – the expiration of that period; or

(c) where such proceedings are commenced within that period – the completion of those proceedings or as the court before which they are brought otherwise directs,

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

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

15 Inspector to report to Minister

Where an inspector enters any land, premises, vehicle, train, aircraft, vessel, carriage or conveyance in pursuance of his powers under section 14 without the permission of the owner thereof, he shall, as soon as practicable after so entering, report in writing to the Minister:

(a) the name, address or location at which the entry took place;

(b) the date of entry;

(c) the action, if any, taken by him under this Act on or in relation to the land, premises, vehicle, train, aircraft, vessel, carriage or conveyance, as the case may be; and

(d) the articles, if any, removed in pursuance of section 14(4).

16 Erection of notices

(1) An inspector may make or erect on any land, fruit, plant or packaging that has been found affected by any pest or disease such marks or notices as he considers necessary to indicate that a specimen or sample of the land, fruit, plant or packaging has been removed for the purposes of examination or that on examination has been found to be affected by a pest or disease.

(2) If the removal of any fruit or plant from any land or premises has been prohibited under any provision of this Act, an inspector may erect or cause to be erected on that land or premises a notice stating that fact.

(3) A person shall not interfere with any mark or notice made or erected under this section.

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

17 Erection of traffic signs

(1) An inspector may erect, at or near a quarantine station, quarantine area or other place affected by a disease or pest a traffic sign approved by the Chief Inspector for the purpose of controlling or regulating traffic for the purposes of this Act.

(2) No person shall contravene or fail to comply with a requirement appearing on a traffic sign erected pursuant to subsection (1).

Penalty: $8,000 or imprisonment for 6 months.

18 Directions

(1) If an inspector is of the opinion that any fruit or plant is affected by a pest or disease, he may serve on the owner of the land or premises on or in which the fruit or plant was discovered a notice directing that measures specified in the notice be taken for the control or eradication of the pest or disease.

(2) An inspector may serve upon the owner of any land that is or premises that are, in his opinion, in such proximity to the place in which fruit or a plant was found to be affected by a pest or disease that the pest or disease might be transmitted to that land or those premises, a notice directing that measures specified in the notice be taken to prevent the spread of the pest or disease.

(3) A person shall not contravene or fail to comply with a notice under this section.

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

19 Further measures of control

(1) If, in the opinion of the Minister, adequate measures for the control or eradication of a pest or disease are not being taken, the Minister may direct an inspector to implement such measures for the control or eradication of the pest or disease as are specified in the direction, including the destruction of any fruit, plants and packaging.

(2) Where the Minister has given a direction under subsection (1), an inspector may, with or without assistance, enter upon land or premises and implement measures for the control or eradication of a pest or disease in accordance with the directions of the Minister.

20 Orchards

(1) The Chief Inspector may, if he is satisfied that:

(a) an orchard is habitually, or has been for a period of 2 years, neglected or uncultivated; and

(b) by reason of neglect of the orchard a disease or pest is likely to be spread,

serve on the owner of the orchard a notice to show cause, within 14 days after the service of the notice on him, why the plants specified in the notice should not be destroyed.

(2) The Chief Inspector shall consider any matter brought to his attention within the period referred to in subsection (1) by the owner of the orchard on whom a notice under that subsection has been served, and if he is satisfied that adequate arrangements have been made by that owner to ensure that a disease or pest is not likely to be spread by reason of the state of that orchard, notify the owner accordingly or, if he is not so satisfied, serve on the owner a further notice indicating that the Chief Inspector intends, not earlier than 14 days after the service of that further notice, to destroy the plants specified in the notice referred to in subsection (1).

(3) A person served with a notice under subsection (2) may appeal to the Local Court:

(a) within 14 days after his being served with the notice; and

(b) in the prescribed manner and form,

against the decision of the Chief Inspector, and on such an appeal being lodged, the Chief Inspector shall take no action to destroy the relevant plants until the appeal has been determined.

(4) Where an appeal is not lodged within the period referred to in subsection (3) or an appeal under that subsection is determined adversely to the appellant, the Chief Inspector shall cause the plants specified in the notice referred to in subsection (1) to be destroyed and for that purpose may enter on the land on which the orchard is situated with such workmen, equipment and assistance as is reasonably necessary to destroy the plants.

(5) All costs incurred by the Chief Inspector in carrying out his functions under subsection (4) shall be a debt due and payable to the Territory by the owner of the orchard and are a statutory charge, within the meaning of the *Land Title Act*, on the land.

21 Supply of name and address

(1) An inspector may require a person whom he suspects of committing or attempting to commit an offence against this Act or the Regulations to supply the inspector with the person's name and residential address.

(2) No person shall:

(a) fail or refuse to state the person's name and residential address; or

(b) give a name or residential address that is not the person's true name or residential address,

when required by an inspector to provide that information in accordance with subsection (1).

Penalty: $8,000 or imprisonment for 6 months.

22 Liability

(1) No liability shall attach to an inspector for any thing done by him in good faith and without negligence in the exercise or the performance, or purported exercise or performance, of his powers or functions under this Act.

(2) No liability shall attach to any person for any thing done by him in good faith without negligence in assisting an inspector purporting to exercise or perform his powers or functions under this Act.

23 Obstruction of inspector

No person shall obstruct, hinder or impede an inspector, or a person acting in good faith assisting an inspector, in the exercise or performance of his powers or functions under this Act.

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

23A False or misleading statements

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

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

24 Recovery of costs

The Chief Inspector may recover from a person in a court of competent jurisdiction, as a debt due to the Territory, the amount expended by the Territory resulting from the contravention or failure to comply by that person with a provision of this Act or the Regulations.

25 Proceedings for offences

Proceedings for offences under this Act shall be disposed of summarily.

26 Service of notices

(1) Where, under this Act, provision is made for an inspector to serve a notice upon the owner of any land or premises, that notice may be served:

(a) personally;

(b) by registered post; or

(c) by affixing it in some conspicuous place upon the land or premises.

(2) If:

(a) the whereabouts of an owner of land or premises who is required to be or may be served with a notice is not known; or

(b) the identity of the owner of land or premises is not known,

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

27 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for the purposes of carrying out or giving effect to this Act, in particular the provision of:

(a) methods for the control or regulation of traffic for the purposes of this Act; and

(b) penalties not exceeding $4,000 for the contravention or failure to comply with a provision of the Regulations.

Schedule Repealed Acts

section 3

Number and Year	Act
No. 25, 1969	*Plant Diseases Control Act 1969*
No. 4, 1972	*Plant Diseases Control Act 1972*

ENDNOTES

1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION

Plant Diseases Control Act 1979 (Act No. 126, 1979)

Assent date	15 October 1979
Commenced	2 November 1979 (*Gaz* G44, 2 November 1979, p 17)

Plant Diseases Control Amendment Act 1989 (Act No. 2, 1989)

Assent date	14 March 1989
Commenced	15 March 1989 (s 2)

Local Court (Consequential Amendments) Act 1989 (Act No. 14, 1989)

Assent date	5 June 1989
Commenced	s 6: 5 June 1989; rem: 1 Jan 1991 (s 2, s 2 *Small Claims Amendment Act 1988* (Act No. 43, 1988), *Gaz* G17, 3 May 1989, p 2, s 2 *Local Court Act 1989* (Act No. 31, 1989) and *Gaz* G49, 12 December 1990, p 2)

Real Property (Statutory Charges Consequential Amendments) Act 1993 (Act No. 77, 1993)

Assent date	23 November 1993
Commenced	1 October 1994 (s 2, s 2, *Real Property Amendment Act (No. 2) 1993* (Act No. 76, 1993) and *Gaz* G37, 14 September 1994, p 2)

Plant Diseases Control Amendment Act 1994 (Act No. 80, 1994)

Assent date	30 December 1994
Commenced	15 February 1995 (*Gaz* G7, 15 February 1995, p 4)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

3 LIST OF AMENDMENTS

s 6	amd No. 2, 1989, s 4; No. 80, 1994, s 4
s 7	amd No. 80, 1994, s 5
ss 7A – 7B	ins No. 80, 1994, s 6
s 8	amd No. 2, 1989, s 5; No. 80, 1994, ss 7 and 14; No. 17, 1996, s 6
s 9	amd No. 80, 1994, s 14
s 11	amd No. 80, 1994, ss 8 and 14
s 11A	ins No. 80, 1994, s 9
ss 12 – 13	amd No. 80, 1994, s 14
s 13A	ins No. 80, 1994, s 10
s 14	amd No. 2, 1989, s 6; No. 80, 1994, ss 11 and 14
s 14A	ins No. 2, 1989, s 7
ss 16 – 18	amd No. 80, 1994, s 14
s 20	amd No. 14, 1989, s 7; No. 77, 1993, s 12; No. 45, 2000, s 11
s 21	amd No. 2, 1989, s 8; No. 80, 1994, s 14
s 23	amd No. 80, 1994, s 14
s 23A	ins No. 80, 1994, s 12
s 26	amd No. 80, 1994, s 13
s 27	amd No. 80, 1994, s 14