



Australian Capital Territory

Plant Diseases Act 1934 No 21

Republication No 3

Republication date: 17 June 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Plant Diseases Act 1934* as in force on 17 June 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Plant Diseases Act 1934

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Amendments incorporated to
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Australian Capital Territory

Plant Diseases Act 1934

An Act relating to diseases and pests affecting plants

1 Name of Act

This Act is the *Plant Diseases Act 1934*.

5 Interpretation for Act

(1) In this Act:

Note 1 A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

approved insecticide, in relation to a pest, means a preparation declared by the Minister under section 6A to be an approved insecticide in relation to that pest.

disease, in relation to plants, means a disease, pest, virus or condition declared, in writing, by the Minister to be a disease, and includes any such disease at any stage of its development.

fruit—

- (a) means the edible fructification of any plant, and a plant or plant product declared, in writing, by the Minister to be a fruit; and
- (b) includes all or any part of the seed, nut, skin, peel or shell of any such fruit.

goods includes all kinds of movable property.

infected means infected with disease, insect or pest.

inspector means an inspector under section 6B.

insect—

- (a) means—
 - (i) any form of animal life, within the biological classification Insecta, having a segmented body and paired jointed appendages (including, for example, an

ant, bee, beetle, bug, butterfly, earwig, flea, fly, gnat, grasshopper, leaf-hopper, louse, locust, scale insect, termite or thrip); or

- (ii) any form of animal life, within the biological classification Arachnida (including, for example, a spider, mite or tick); or
- (iii) any other animal species declared, in writing, by the Minister to be an insect; and

(b) includes any such insect in any stage of development.

nursery means any land, place or premises, and includes a bushhouse, glasshouse or garden of any kind on or in which plants are grown for the purpose of sale or disposal in their living stage.

occupier in relation to any plantation, place or premises, means the person in actual occupation or, if there is no such person, the lessee, licensee, tenant or person having the charge, control, management or use of it.

orchard means any place where fruit producing plants are grown.

owner, in relation to any plantation, place or premises, means the person entitled to the possession of it.

package includes every means by which plants or goods are cased, covered, enclosed, contained or packed for carriage, storage, sale or any other purpose.

pest means any member of the animal or plant kingdom declared, in writing, by the Minister to be a pest, and includes any such pest in any stage of development.

plant means any member or part of any member of the plant kingdom.

plantation means any land, place or premises, and includes an orchard, nursery, bushhouse, glasshouse or garden of any kind on or in which any plant is grown.

sell includes barter or exchange, and offer or attempt to sell or receive, have in possession, expose, send, forward or deliver for sale, or cause, suffer, permit or allow to be sold or offered or exposed for sale.

vegetables—

- (a) means—
- (i) asparagus, beetroot, cauliflowers, celery, chillies, cucumber, pumpkins, rhubarb, squashes, marrows, tomatoes and potatoes; or
 - (ii) the edible parts of herbaceous or other plants commonly used for food; or
 - (iii) a plant or plant product declared, in writing, by the Minister to be a vegetable; and
- (b) includes all or any part of the seed, skin, peel or shell of any such vegetable.
- (2) In this Act, quarantine has relation to measures for the inspection, exclusion, detention, observation, segregation, isolation, protection, treatment, sanitary regulation and disinfection of goods, soil or plants, having as their object the prevention of the introduction or spread of pests or diseases affecting plants.
- (3) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

6 Prohibition of introduction of plants, insects, diseases or pests

- (1) The Minister may, in writing—
- (a) prohibit, either absolutely or subject to such conditions as the Minister considers appropriate or as are prescribed, the introduction into, or transport within or through the ACT, of any plant, insect, pest or disease or anything that the Minister considers likely to contain any plant, insect, pest or disease; or

- (b) appoint places to be the only places of entry for plants, insects, soil or goods into the ACT; or
 - (c) appoint places to be quarantine stations—
 - (i) for the performance of quarantine by plants, insects, soil or goods; and
 - (ii) for the introduction for scientific purposes of plants and insects; and
 - (iii) for the treatment of plants, soil or goods affected with pests or diseases; or
 - (d) declare, for the period the Minister considers necessary, the whole or any part of the ACT or any place or plantation in which any pest or disease affecting plants, soil or goods exists, or is believed to exist, to be a quarantine area; or
 - (e) prohibit, either absolutely or subject to the conditions as the Minister considers appropriate, the removal from any place of any plant, insect, soil or goods; or
 - (f) exempt any place, for the time or subject to the conditions the Minister considers appropriate, from all or any of the provisions of this Act.
- (2) An instrument under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

6A Approval of insecticides

- (1) The Minister may, in writing, declare a preparation to be an approved insecticide in relation to a pest.
- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

6B Inspectors

- (1) There may be 1 or more inspectors for this Act.

- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include exercising the functions of an inspector.
- (3) An inspector shall be any public servant for the time being performing the duties of a public service office referred to in subsection (2).

7 Powers of inspector

An inspector may—

- (a) seize and, after the written notice that is prescribed, treat or dispose of in the prescribed way, any plant, insect, soil or goods brought into the ACT in contravention of this Act; and
- (b) enter, inspect or search any plantation, or any place, or any vehicle, where or in which plants or goods are stored, sold, held, exposed for sale, or conveyed, or where or in which the inspector reasonably suspects plants or goods are being stored, held or conveyed, and open cases and packages and take the samples the inspector considers necessary for this Act; and
- (c) examine or order into quarantine for examination or for the treatment the inspector considers appropriate—
 - (i) any plants, either in transit or held or exposed for sale or disposal in any other way, that, in the inspector's opinion, are or are likely to be affected with any pest or disease; or
 - (ii) any plants or goods that contain or appear to contain any insect, pest or disease agent; and
- (d) by written notice to the owner or occupier of any place, order the destruction or treatment, within the time or in the way stated in the notice, of any plants that are affected or suspected of being affected with any pest or disease, or of any plants, soil or goods that, in the inspector's opinion, contain or appear to contain any insect, pest or disease agent or constitute an obstacle to the control of any pest or disease, or that, in the

inspector's opinion, may be a source of danger to other plants, soils or goods and ought to be treated or destroyed; and

- (e) order all packages with which plants, soil or goods have been contained to be treated or disposed of in the time and in the way prescribed.

8 Sale of fruit and vegetables

Any person who exposes for sale or sells any plants, fruit or vegetables that are affected with any pest or disease or any fruit or vegetables that are so displayed that the outer layer or shown surface of the fruit or vegetables is not a true indication of the fair average quality and size of the whole of the fruit or vegetables, commits an offence.

Maximum penalty: 5 penalty units.

9 Notices

- (1) Any notice to be given under this Act to any person shall be in writing and may be served on that person either personally, or left at, or posted by registered letter to, his usual or last-known place of abode in the ACT, or, if the person or his address is unknown, or if the person has no place of business or abode in the ACT, service may be effected by attaching the notice in a conspicuous place on the plantation to which the notice relates.
- (2) Any such notice may by writing so served, be revoked, suspended or varied by the person authorised to give the notice.

10 Default by owner or occupier etc

- (1) If any person fails to comply with the requirements of any notice given under this Act, the Minister may authorise an inspector to take the measures to carry out the requirements of the notice that the Minister considers appropriate.
- (2) The cost of taking the measures may be recovered from that person as a debt due to the Territory.

- (3) Any amount recoverable under this section shall include a proportionate part of the salary or wages of any person taking the measures, having regard to the time occupied by the person in taking the measures and in travelling for that purpose, and the necessary expenses in connection with the travelling.

11 Offences

Any person who—

- (a) hinders or obstructs any person in the performance of any duty or obligation imposed on him by this Act; or
- (b) does or attempts to do any act in contravention of the provisions of this Act or any notice published or given under this Act; or
- (c) neglects to perform any duty or obligation imposed on the person under this Act;

commits an offence.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both; and
- (b) for paragraph (b)—50 penalty units; and
- (c) for paragraph (c)—20 penalty units.

13 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

14 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

15 No compensation for destruction of fruit

No person shall be entitled to claim or recover payment by way of compensation or otherwise in relation to any action taken by an inspector in the exercise of any power or the discharge of any duty under this Act or the regulations or in relation to any loss or damage sustained by any such action unless the action of the inspector is not performed bona fide in the course of his duties under this Act.

16 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to—
 - (a) the conditions under which plants, soil, packages or goods may be brought into the ACT; and
 - (b) the inspection, examination, detention, treatment or disposal of, or other measures in relation to, plants, soil, packages or goods with a view to preventing the introduction of, or to securing the eradication or control of, or to lessening the risk of damage by, pests or diseases; and
 - (c) quarantine stations appointed under this Act and the plants, insects, soil or goods within those stations; and
 - (d) the display and sale of fruit and vegetables; and

- (e) the inspection of plantations and the measures to be taken to control or eliminate insects, pests and diseases of plants on them; and
 - (f) the packing and grading of fruit and vegetables; and
 - (g) cases, packages and coverings used, or intended to be used, as containers for fruit.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Plant Diseases Ordinance 1934* No 21 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act by the Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Plant Diseases Act 1934 No 21

notified 6 September 1934

commenced 7 February 1935 (s 2 and Cwlth Gaz 1935 p153)

as amended by

Plant Diseases Ordinance 1936 No 35

notified 27 August 1936

commenced 27 August 1936

Plant Diseases Ordinance 1938 No 1

notified 3 February 1938

commenced 3 February 1938

Plant Diseases Ordinance (No 2) 1938 No 39

notified 5 January 1939

commenced 5 January 1939

Plant Diseases Ordinance 1955 No 4

notified 21 April 1955

commenced 21 April 1955

Ordinances Revision Ordinance 1959 No 21

notified 23 December 1959

commenced 31 December 1959

Ordinances Revision (Decimal Currency) Ordinance 1966 No 19

notified 23 December 1966
commenced 23 December 1966

Plant Diseases (Amendment) Ordinance 1981 No 7

notified 27 March 1981
commenced 27 March 1981

Magistrates Court Ordinance 1985 No 67 sch pt 1

notified 19 December 1985
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Legislation after becoming Territory enactment**Acts Revision (Position of Crown) Act 1993 No 44 sch 1**

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Statute Law Revision Act 1995 No 46 sch

notified 18 December 1995 (Gaz 1995 No S306)
amnds commenced 18 December 1995 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 283

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 283 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3169

Repeal

s 3 om 1981 No 7

State Acts to cease to apply

s 4 om 1981 No 7

Interpretation for Act

s 5 am 1936 No 35; 1938 No 1; 1938 No 39; 1955 No 4; 1981 No 7; 2001 No 44 amdt 1.3172, amdt 1.3173
def **disease** sub 2001 No 44 amdt 1.3170
def **fruit** sub 2001 No 44 amdt 1.3170
def **insect** sub 2001 No 44 amdt 1.3170
def **inspector** sub 1994 No 97 sch pt 1
def **pest** sub 2001 No 44 amdt 1.3170
def **This Act** om 2001 No 44 amdt 1.3171
def **vegetables** sub 2001 No 44 amdt 1.3170

Prohibition of introduction of plants, insects, diseases or pests

s 6 am 1994 No 97 sch pt 1; 2001 No 44 amdts 1.3174-1.3176

Approval of insecticides

s 6A ins 1981 No 7
sub 2001 No 44 amdt 1.3177

Inspectors

s 6B ins 1994 No 97 sch pt 1

Powers of inspector

s 7 am 1936 No 35; 1938 No 1

Sale of fruit and vegetables

s 8 am 1966 No 19; 1994 No 81 sch

Default by owner or occupier etc

s 10 am 1993 No 44 sch 1

Offences

s 11 am 1966 No 19; 1994 No 81 sch

Penalties

s 12 am 1966 No 19
om 1994 No 81 sch

Determination of fees

s 13 am 1985 No 67; 1993 No 44 sch 1
sub 2001 No 44 amdt 1.3178

No compensation for destruction of fruit

s 13A renum as s 15 2001 No 44 amdt 1.379

Approved forms

s 14 am 1938 No 1; 1959 No 21; 1966 No 19; 1989 No 38 sch 1;
 1994 No 81 sch; 1995 No 46 sch
 om 2001 No 44 amdt 1.3180
 ins 2001 No 44 amdt 1.3179

No compensation for destruction of fruit

s 15 (prev s 13A) ins 1938 No 1
 renum 2001 No 44 amdt 1.379

Regulation-making power

s 16 (prev s 14) renum 2001 No 44 amdt 1.3180
 am 2001 No 44 amdt 1.3180, amdt 1.3181

The Schedule

sch om 1981 No 7

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	30 June 1991
2	Act 1994 No 97	28 February 1995

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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