



AUSTRALIAN CAPITAL TERRITORY

Land (Planning and Environment) (Amendment) Act 1997

No. 7 of 1997

An Act to amend the *Land (Planning and Environment) Act 1991* and for related purposes

[Notified in ACT Gazette S92: 22 April 1997]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Land (Planning and Environment) (Amendment) Act 1997*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence immediately after section 77 of the *Land (Planning and Environment) (Amendment) Act (No. 3) 1996* commences.

PART II—AMENDMENTS OF PRINCIPAL ACT

Principal Act

3. In this Part, “Principal Act” means the *Land (Planning and Environment) Act 1991*.¹

Interpretation

4. Section 4 of the Principal Act is amended by inserting the following definitions:

“ ‘pest animal’ means an animal in a class of animals declared to be pest animals under subsection 254 (1);

‘pest plant’ means a plant in a class of plants declared to be pest plants under subsection 254 (1);”.

Insertion

5. Before section 255 of the Principal Act the following section is inserted in Division 3 of Part VI:

Pest animals and pest plants

“254. (1) The Minister may, by instrument—

- (a) declare a class of animals to be pest animals; or
- (b) declare a class of plants to be pest plants;

either generally or in a specified area.

“(2) For the purposes of subsection (1)—

‘animal’ means any live vertebrate but does not include a human being.

“(3) The Minister shall not make a declaration under subsection (1) unless the Minister has consulted with—

- (a) the Flora and Fauna Committee established under the *Nature Conservation Act 1980*; and
- (b) in relation to a declaration proposed to be made under paragraph (1) (a)—the Animal Welfare Advisory Committee established under the *Animal Welfare Act 1992*.

“(4) After making a declaration under subsection (1), the Minister—

- (a) shall cause to be prepared a plan for the control of the propagation of animals or plants of the relevant class; and
- (b) if the declaration was made under paragraph (1) (a)—may cause to be prepared a code of practice under the *Animal Welfare Act 1992* in relation to the animals of the relevant class.

“(5) An instrument made under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

Application for order

6. Section 256 of the Principal Act is amended—

- (a) by omitting from paragraph (3) (a) “and”;
- (b) by inserting after paragraph (3) (a) the following paragraph:
 - “(ab) in the case of an application for an order relating to a pest animal or pest plant—the Conservator; and”;
- (c) by omitting from paragraph (4A) (a) “and”;
- (d) by inserting after paragraph (4A) (a) the following paragraph:
 - “(ab) in the case of an application for an order relating to a pest animal or pest plant—the Conservator; and”;
- (e) by inserting after subsection (4B) the following subsection:
 - “(4BA) The Minister shall refuse to make an order under subsection (4B) in relation to the controlled activity of using or managing land in a way that fails to control the propagation of a pest animal or pest plant if—
 - (a) there is a written agreement between the lessee or occupier of the land and the Minister relating to control of the propagation of the relevant pest animal or pest plant; and
 - (b) the Minister is satisfied that the lessee or occupier is giving effect to the agreement.”.

Insertion

7. After section 256 of the Principal Act the following section is inserted:

Effect of certain orders

“256A. An order under section 256 that relates to a pest animal or a pest plant is to be taken to be a licence under the *Nature Conservation Act 1980* for any action in relation to the animal or plant required to comply with the order.”.

Schedule 5

8. Schedule 5 to the Principal Act is amended by adding at the end the following item:

- | | | |
|----|--|------------------|
| 11 | Using or managing land in a way that fails to control the propagation of a pest animal or pest plant | 50 penalty units |
|----|--|------------------|

PART III—REPEALS AND CONSEQUENTIAL AMENDMENTS

Repeals

9. The Acts specified in the Schedule are repealed.

Consequential amendment—*Common Boundaries Act 1981*

10. Section 21 of the *Common Boundaries Act 1981* is repealed and the following section substituted:

Other Act not affected

“21. Nothing in this Division affects the operation of section 11 of the *Bushfire Act 1936*.”.

Consequential amendment—*Litter Act 1977*

11. (1) Section 2 of the *Litter Act 1977* is amended by inserting the following definition:

“ ‘garden waste’ means waste or soil or landscaping material, that contains plant material capable of propagating;”.

(2) Section 3A of the *Litter Act 1977* is repealed and the following section substituted:

Depositing of commercial waste or garden waste

“3A. A person shall not deposit commercial waste or garden waste in or on a public place.

Penalty: 50 penalty units or imprisonment for 6 months, or both.”.

(3) Section 4 of the *Litter Act 1977* is amended by omitting from paragraph (a) “or commercial waste” and substituting “, commercial waste or garden waste”.

Consequential amendment—*Nature Conservation Act 1980*

12. (1) In this section—

“Principal Act” means the *Nature Conservation Act 1980*.

- (2) Section 5 of the Principal Act is amended—
- (a) by omitting “noxious animal” from the definition of “native animal” and substituting “pest animal”;
 - (b) by omitting “noxious weed” from the definition of “native plant” and substituting “pest plant”;
 - (c) by adding “and includes the spreading of a pest animal or pest plant” at the end of the definition of “threatening process”.
 - (d) by omitting the definitions of “noxious animal” and “noxious weed”; and
 - (e) by inserting the following definitions:

“ ‘pest animal’ has the same meaning as in the *Land (Planning and Environment) Act 1991*;

‘pest plant’ has the same meaning as in the *Land (Planning and Environment) Act 1991*.”

- (3) Section 56 of the Principal Act is amended—
- (a) by omitting from paragraph (1) (e) “or” (last occurring);
 - (b) by adding at the end of paragraph (1) (f) “or”; and
 - (c) by adding at the end of subsection (1) the following paragraph:
 - “(g) deposit garden waste, soil or landscaping material that contains plant material capable of propagating.”.

(4) Section 57 of the Principal Act is amended by omitting from paragraph (1) (b) “noxious weed” and substituting “pest plant”.

Consequential amendment—*Land Titles Act 1925*

13. Section 120 of the *Land Titles Act 1925* is amended—
- (a) by omitting from paragraph (c) “noxious weeds or animals” and substituting “pest plants or pest animals”; and
 - (b) by adding at the end the following subsection:
 - “(2) For the purposes of subsection (1)—
 - ‘pest animal’ has the same meaning as in the *Land (Planning and Environment) Act 1991*;
 - ‘pest plant’ has the same meaning as in the *Land (Planning and Environment) Act 1991*.”.

SCHEDULE

Section 9

REPEAL OF ACTS

Noxious Weeds Act 1921

Noxious Weeds Act 1922

Noxious Weeds Act 1936

Noxious Weeds Act 1943

Rabbit Destruction Act 1919

Rabbit Destruction Act 1937

Rabbit Destruction Act 1938

Rabbit Destruction Act 1943

Rabbit Destruction Act 1975

Rabbit Destruction (Amendment) Act 1980

Rabbit Destruction (Amendment) Act 1986

NOTES

Principal Act

1. Reprinted as at 28 February 1995. See also Acts Nos. 20, 21, 25, 54 and 56, 1995; Nos. 62, 71 and 85, 1996.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 27 June 1996]

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