



Australian Capital Territory

# **Plant Diseases Act 1934**

**A1934-21**

**Republication No 2A**

**Effective: 18 December 1995 – 11 September 2001**

Republication date: 12 January 2011

Last amendment made by A1995-46

Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Plant Diseases Act 1934* effective 18 December 1995 to 11 September 2001.

### **Kinds of republications**

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

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



Australian Capital Territory

## PLANT DISEASES ACT 1934

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

### TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
5.	Interpretation
6.	Prohibition of introduction of plants, insects, diseases or pests
6A.	Approval of insecticides
6B.	Inspectors
7.	Powers of inspector
8.	Sale of fruit and vegetables
9.	Notices
10.	Default by owner or occupier etc.
11.	Offences
13.	Recovery of fees and expenses
13A.	No compensation for destruction of fruit
14.	Regulations

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An Act relating to Diseases and Pests affecting Plants

#### Short title

1. This Act may be cited as the *Plant Diseases Act 1934*.<sup>1</sup>

#### Commencement

2. This Act shall commence on a date to be fixed by the Minister by notice in the *Gazette*.<sup>1</sup>

## **Interpretation**

**5. (1)** In this Act, unless the contrary intention appears—

“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 any disease, pest, virus or condition declared by the Minister by notice in the *Gazette* to be a disease, and includes any such disease at any stage of its development;

“Fruit” means the edible fructification of any plant, and any plant or plant product declared by the Minister by notice in the *Gazette* to be a fruit; and includes the seed, nut, skin, peel or shell of any such fruit, whether wholly or in part;

“Goods” includes all kinds of movable property;

“Infected” means infected with disease, insect or pest;

“inspector” means an inspector under section 6B;

“Insect” means—

- (a) any form of animal life, within the biological classification Insecta, having a segmented body and paired jointed appendages, such as an ant, bee, beetle, bug, butterfly, earwig, flea, fly, gnat, grasshopper, leaf-hopper, louse, locust, scale insect, termite, or thrips;
- (b) any form of animal life, within the biological classification Arachnida, such as a spider, a mite or a tick; and
- (c) any other animal species declared by the Minister by notice in the *Gazette* to be an insect,

and includes any such insect in any stage of development;

“Nursery” means any land, place or premises, and includes a bush house, glass-house or garden of any kind whereon or wherein 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,

*Plant Diseases Act 1934*

licensee, tenant or person having the charge, control, management or use thereof;

“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 thereof;

“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 by the Minister, by notice in the *Gazette*, 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, bush house, glass-house or garden of any kind whereon or wherein any plant is grown;

“Sell” includes barter or exchange; and also includes 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; and “sale” has a corresponding meaning;

“This Act” includes any regulations made thereunder; and

“Vegetables” means asparagus, beetroot, cauliflowers, celery, chillies, cucumber, pumpkins, rhubarb, squashes, marrows, tomatoes, potatoes, and edible parts of herbaceous or other plants commonly used for food and any plant or plant product declared by the Minister, by notice in the *Gazette*, to be a vegetable; and includes the seed, skin, peel or shell of any such vegetable, whether wholly or in part.

(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.

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

6. The Minister may, by notice in the *Gazette*—

*Plant Diseases Act 1934*

- (a) prohibit, either absolutely or subject to such conditions as he thinks fit or as are prescribed, the introduction into, or transport within or through the Territory, of any plant, insect, pest or disease or any thing which he considers likely to contain any plant, insect, pest or disease;
- (b) appoint places to be the only places of entry for plants, insects, soil or goods into the Territory;
- (c) appoint places to be quarantine stations—
  - (i) for the performance of quarantine by plants, insects, soil or goods;
  - (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;
- (d) declare, for such period as he thinks necessary, the whole or any part of the Territory 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;
- (e) prohibit, either absolutely or subject to such conditions as he thinks fit to specify in the notice, the removal from any place of any plant, insect, soil or goods; or
- (f) exempt any place, for such time or subject to such conditions as he thinks fit, from all or any of the provisions of this Act.

**Approval of insecticides**

**6A.** The Minister may, by notice in the *Gazette*, declare a preparation to be an approved insecticide in relation to a pest.

**Inspectors**

**6B. (1)** There may be 1 or more inspectors for the purposes of this Act.

**(2)** The Chief Executive shall create and maintain 1 or more offices in the Government Service the duties of which include performing the functions of an inspector.

**(3)** An inspector shall be any public servant for the time being performing the duties of a Government Service office referred to in subsection (2).

**Powers of inspector**

**7.** An inspector may—

*Plant Diseases Act 1934*

- (a) seize and, after such written notice as is prescribed, treat or dispose of in the prescribed manner, any plant, insect, soil or goods brought into the Territory in contravention of this Act;
- (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 he reasonably suspects plants or goods are being stored, held or conveyed, and open cases and packages and take such samples as he considers necessary for the purposes of this Act;
- (c) examine or order into quarantine for examination or for such treatment as he thinks fit—
  - (i) any plants, either in transit or held or exposed for sale or disposal in any other way, which, in his opinion, are or are likely to be affected with any pest or disease; or
  - (ii) any plants or goods which contain or appear to contain any insect, pest or disease agent;
- (d) by written notice to the owner or occupier of any place, order the destruction or treatment, within the time or in the manner stated in the notice, of any plants which are affected or suspected of being affected with any pest or disease, or of any plants, soil or goods which, in his 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 which, in his 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 manner prescribed.

**Sale of fruit and vegetables**

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

Penalty: 5 penalty units.

**Notices**

**9. (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

*Plant Diseases Act 1934*

by registered letter to, his usual or last known place of abode in the Territory, or, if the person or his address is unknown, or if he has no place of business or abode in the Territory, service may be effected by affixing 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 authorized to give the notice.

**Default by owner or occupier etc.**

10. (1) Where any person fails to comply with the requirements of any notice given under this Act, the Minister may authorize an inspector to take such measures to carry out the requirements of the notice as the Minister thinks fit.

(2) The cost of taking any such 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 him in taking the measures and in travelling for that purpose, and the necessary expenses in connexion with the travelling.

**Offences**

11. Any person who—

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

shall be guilty of an offence.

Penalty:

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



### **Recovery of fees and expenses**

**13. (1)** The fees prescribed under this Act shall be a debt due to the Territory and shall be paid by the owner or importer of the plants, soil or goods, or the grower of the plants, as the case may be.

**(2)** Any debts due to the Territory in pursuance of this Act may be sued for and recovered by action instituted by an inspector in the Magistrates Court as a civil debt recoverable summarily.

### **No compensation for destruction of fruit**

**13A.** No person shall be entitled to claim or recover payment by way of compensation or otherwise in respect of 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 respect of 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.

### **Regulations**

**14.** The Executive may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular with respect to—

- (a) the conditions under which plants, soil, packages or goods may be brought into the Territory;
- (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;
- (c) quarantine stations appointed under this Act and the plants, insects, soil or goods within those stations;
- (d) the display and sale of fruit and vegetables;
- (e) the inspection of plantations and the measures to be taken to control or eliminate insects, pests and diseases of plants thereon;
- (ea) the packing and grading of fruit and vegetables;
- (ec) cases, packages and coverings used, or intended to be used as containers of fruit or vegetables;
- (f) the payment of fees for the inspection, examination, detention, treatment or disposal of plants, soil or goods, or in connexion with any

*Plant Diseases Act 1934*

action ordered to be taken in pursuance of this Act with respect to plants, soil or goods; and

- (g) the imposition of penalties in respect of breaches of the regulations not exceeding—
- (i) if the offender is a natural person—10 penalty units; or
  - (ii) if the offender is a body corporate—50 penalty units.

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**NOTE**

1. The *Plant Diseases Act 1934* as shown in this reprint comprises Act No. 21, 1934 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

**Table of Ordinances**

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Plant Diseases Ordinance 1934</i>	21, 1934	6 Sept 1934	7 Feb 1935 (see <i>Gazette</i> 1935, p. 153)	—
<i>Plant Diseases Ordinance 1936</i>	35, 1936	27 Aug 1936	27 Aug 1936	—
<i>Plant Diseases Ordinance 1938</i>	1, 1938	3 Feb 1938	3 Feb 1938	—
<i>Plant Diseases Ordinance (No. 2) 1938</i>	39, 1938	5 Jan 1939	5 Jan 1939	—
<i>Plant Diseases Ordinance 1955</i>	4, 1955	21 Apr 1955	21 Apr 1955	—
<i>Ordinances Revision Ordinance 1959</i>	21, 1959	23 Dec 1959	31 Dec 1959	—
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	19, 1966	23 Dec 1966	23 Dec 1966	—
<i>Plant Diseases (Amendment) Ordinance 1981</i>	7, 1981	27 Mar 1981	27 Mar 1981	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	—

*Plant Diseases Act 1934*

**NOTE**—continued

**Table of Ordinances**—continued

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

**Self-Government day 11 May 1989**

Table 2

**Table of Acts**

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Acts Revision (Position of Crown) Act 1993</i>	44, 1993	27 Aug 1993	27 Aug 1993 (see s. 2)	—
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—
<i>Statutory Offices (Miscellaneous Provisions) Act 1994</i>	97, 1994	15 Dec 1994	Ss. 1 and 2: 15 Dec 1994 Remainder: 15 December 1994 (see <i>Gazette</i> 1994, No. S293)	Part III (ss. 4-9)
<i>Statute Law Revision Act 1995</i>	46, 1995	18 Dec 1995	18 Dec 1995	—

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
Ss. 3, 4.....	rep. No. 7, 1981
S. 5 .....	am. No. 35, 1936; Nos. 1 and 39, 1938; No. 4, 1955; No. 7, 1981; Act No. 97, 1994
S. 6 .....	am. Act No. 97, 1994
S. 6A .....	ad. No. 7, 1981

**NOTE**—continued

**Table of Amendments**—continued

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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Provision	How affected
S. 6B.....	ad. Act No. 97, 1994
S. 7.....	am. No. 35, 1936; No. 1, 1938
S. 8.....	am. No. 19, 1966; Act No. 81, 1994
S. 10.....	am. Act No. 44, 1993
S. 11.....	am. No. 19, 1966; Act No. 81, 1994
S. 12.....	am. No. 19, 1966 rep. Act No. 81, 1994
S. 13.....	am. No. 67, 1985; Act No. 44, 1993
S. 13A.....	ad. No. 1, 1938
S. 14.....	am. No. 1, 1938; No. 21, 1959; No. 19, 1966; No. 38, 1989; Act No. 81, 1994; No. 46, 1995
The Schedule.....	rep. No. 7, 1981

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