

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Environment)

Animal and Plant Diseases Amendment Bill 2003

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(As presented)

(Minister for Environment)

Animal and Plant Diseases Amendment Bill 2003

A Bill for

An Act to amend the *Animal Diseases Act 1993* and the *Plant Diseases Act 2002*

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Animal and Plant Diseases Amendment Act 2003*.

4 **2 Commencement**

5 (1) Part 2 commences on the day after this Act's notification day.

6 (2) Part 3 commences on the later of—

7 (a) the day after this Act's notification day; and

8 (b) the commencement of the *Plant Diseases Act 2002*.

9 *Note* The naming and commencement provisions automatically commence on
10 the notification day (see Legislation Act, s 75 (1)).

Part 2 Animal Diseases Act 1993

3 Act amended—pt 2

This part amends the *Animal Diseases Act 1993*.

4 Declaration of exotic diseases New section 12 (3) to (5)

insert

- (3) A declaration under this section may provide for its commencement on or before the declaration's notification day.

Note This subsection provides express authority for a declaration to commence on or before its notification day—see Legislation Act, s 73 (2) (d) (General rules about commencement).

- (4) However—

(a) a declaration may not provide for a commencement date or time that would result in the declaration commencing before it is made; and

(b) a declaration may not commence before it is notified under the Legislation Act unless the Minister is satisfied that the circumstances are of such seriousness and urgency that commencement before notification is necessary to prevent a disease or pest becoming established, or spreading, in the ACT.

- (5) If a declaration commences before it is notified under the Legislation Act, the Minister must ensure that notice of the declaration is broadcast in the ACT by television or radio as soon as possible after it is made.

Section 5

5 Exotic disease quarantine area
New section 14 (5) to (7)*insert*

- (5) A declaration under this section may provide for its commencement on or before the declaration's notification day.

Note This subsection provides express authority for a declaration to commence on or before its notification day—see Legislation Act, s 73 (2) (d) (General rules about commencement).

- (6) However—

(a) a declaration may not provide for a commencement date or time that would result in the declaration commencing before it is made; and

(b) a declaration may not commence before it is notified under the Legislation Act unless the Minister is satisfied that the circumstances are of such seriousness and urgency that commencement before notification is necessary to prevent a disease or pest becoming established, or spreading, in the ACT.

- (7) If a declaration commences before it is notified under the Legislation Act, the Minister must ensure that notice of the declaration is broadcast in the ACT by television or radio as soon as possible after it is made.

6 Importation restriction
New section 15 (5) to (7)*insert*

- (5) A declaration under this section may provide for its commencement on or before the declaration's notification day.

Note This subsection provides express authority for a declaration to commence on or before its notification day—see Legislation Act, s 73 (2) (d) (General rules about commencement).

- 1 (6) However—
- 2 (a) a declaration may not provide for a commencement date or
- 3 time that would result in the declaration commencing before it
- 4 is made; and
- 5 (b) a declaration may not commence before it is notified under the
- 6 Legislation Act unless the Minister is satisfied that the
- 7 circumstances are of such seriousness and urgency that
- 8 commencement before notification is necessary to prevent a
- 9 disease or pest becoming established, or spreading, in the ACT.
- 10 (7) If a declaration commences before it is notified under the
- 11 Legislation Act, the Minister must ensure that notice of the
- 12 declaration is broadcast in the ACT by television or radio as soon as
- 13 possible after it is made.

14 **7 Declaration of stock and endemic stock diseases**

15 **New section 21 (3) to (5)**

- 16 *insert*
- 17 (3) A declaration under this section may provide for its commencement
- 18 on or before the declaration's notification day.
- 19 *Note* This subsection provides express authority for a declaration to
- 20 commence on or before its notification day—see Legislation Act,
- 21 s 73 (2) (d) (General rules about commencement).
- 22 (4) However—
- 23 (a) a declaration may not provide for a commencement date or
- 24 time that would result in the declaration commencing before it
- 25 is made; and
- 26 (b) a declaration may not commence before it is notified under the
- 27 Legislation Act unless the Minister is satisfied that the
- 28 circumstances are of such seriousness and urgency that
- 29 commencement before notification is necessary to prevent a
- 30 disease or pest becoming established, or spreading, in the ACT.

Section 8

- 1 (5) If a declaration commences before it is notified under the
2 Legislation Act, the Minister must ensure that notice of the
3 declaration is broadcast in the ACT by television or radio as soon as
4 possible after it is made.

5 **8 Endemic stock disease quarantine area**
6 **New section 23 (5) to (7)**

7 *insert*

- 8 (5) A declaration under this section may provide for its commencement
9 on or before the declaration's notification day.

10 *Note* This subsection provides express authority for a declaration to
11 commence on or before its notification day—see Legislation Act,
12 s 73 (2) (d) (General rules about commencement).

- 13 (6) However—

14 (a) a declaration may not provide for a commencement date or
15 time that would result in the declaration commencing before it
16 is made; and

17 (b) a declaration may not commence before it is notified under the
18 Legislation Act unless the Minister is satisfied that the
19 circumstances are of such seriousness and urgency that
20 commencement before notification is necessary to prevent a
21 disease or pest becoming established, or spreading, in the ACT.

- 22 (7) If a declaration commences before it is notified under the
23 Legislation Act, the Minister must ensure that notice of the
24 declaration is broadcast in the ACT by television or radio as soon as
25 possible after it is made.

Part 3 Plant Diseases Act 2002

9 Act amended—pt 3

This part amends the *Plant Diseases Act 2002*.

10 New section 4A

in part 1, insert

4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

11 Meaning of *disease* New section 5 (4) to (6)

insert

- (4) A declaration under this section may provide for its commencement on or before the declaration's notification day.

Note This subsection provides express authority for a declaration to commence on or before its notification day—see Legislation Act, s 73 (2) (d) (General rules about commencement).

Section 12

- 1 (5) However—
- 2 (a) a declaration may not provide for a commencement date or
- 3 time that would result in the declaration commencing before it
- 4 is made; and
- 5 (b) a declaration may not commence before it is notified under the
- 6 Legislation Act unless the Minister is satisfied that the
- 7 circumstances are of such seriousness and urgency that
- 8 commencement before notification is necessary to prevent a
- 9 disease or pest becoming established, or spreading, in the ACT.
- 10 (6) If a declaration commences before it is notified under the
- 11 Legislation Act, the Minister must ensure that notice of the
- 12 declaration is broadcast in the ACT by television or radio as soon as
- 13 possible after it is made.

14 **12 Meaning of pest**

15 **New section 7 (4) to (6)**

- 16 *insert*
- 17 (4) A declaration under this section may provide for its commencement
- 18 on or before the declaration's notification day.
- 19 *Note* This subsection provides express authority for a declaration to
- 20 commence on or before its notification day—see Legislation Act,
- 21 s 73 (2) (d) (General rules about commencement).
- 22 (5) However—
- 23 (a) a declaration may not provide for a commencement date or
- 24 time that would result in the declaration commencing before it
- 25 is made; and
- 26 (b) a declaration may not commence before it is notified under the
- 27 Legislation Act unless the Minister is satisfied that the
- 28 circumstances are of such seriousness and urgency that
- 29 commencement before notification is necessary to prevent a
- 30 disease or pest becoming established, or spreading, in the ACT.

- 1 (6) If a declaration commences before it is notified under the
2 Legislation Act, the Minister must ensure that notice of the
3 declaration is broadcast in the ACT by television or radio as soon as
4 possible after it is made.

5 **13 Prohibition of introduction etc of plants, insects,**
6 **diseases and pests**
7 **Section 8 (5)**

8 *substitute*

- 9 (5) A prohibition under this section may provide for its commencement
10 on or before the prohibition's notification day.

11 *Note* This subsection provides express authority for a prohibition to
12 commence on or before its notification day—see Legislation Act,
13 s 73 (2) (d) (General rules about commencement).

- 14 (6) However—

15 (a) a prohibition may not provide for a commencement date or
16 time that would result in the prohibition commencing before it
17 is made; and

18 (b) a prohibition may not commence before it is notified under the
19 Legislation Act unless the Minister is satisfied that the
20 circumstances are of such seriousness and urgency that
21 commencement before notification is necessary to prevent a
22 disease or pest becoming established, or spreading, in the ACT.

- 23 (7) If a prohibition commences before it is notified under the
24 Legislation Act, the Minister must ensure that notice of the
25 prohibition is broadcast in the ACT by television or radio as soon as
26 possible after it is made.

- 27 (8) A person commits an offence if the person intentionally contravenes
28 a prohibition under this section.

29 Maximum penalty: 1 000 penalty units.

Section 14

- 1 (9) A person commits an offence if the person contravenes a prohibition
2 under this section.

3 Maximum penalty: 50 penalty units.

- 4 (10) An offence against subsection (9) is a strict liability offence.

5 **14 Declaration of quarantine area**
6 **Section 10 (5)**

7 *substitute*

- 8 (5) A declaration under this section may provide for its commencement
9 on or before the declaration's notification day.

10 *Note* This subsection provides express authority for a declaration to
11 commence on or before its notification day—see Legislation Act,
12 s 73 (2) (d) (General rules about commencement).

- 13 (6) However—

14 (a) a declaration may not provide for a commencement date or
15 time that would result in the declaration commencing before it
16 is made; and

17 (b) a declaration may not commence before it is notified under the
18 Legislation Act unless the Minister is satisfied that the
19 circumstances are of such seriousness and urgency that
20 commencement before notification is necessary to prevent a
21 disease or pest becoming established, or spreading, in the ACT.

- 22 (7) If a declaration commences before it is notified under the
23 Legislation Act, the Minister must ensure that notice of the
24 declaration is broadcast in the ACT by television or radio as soon as
25 possible after it is made.

- 26 (8) A person commits an offence if the person intentionally contravenes
27 a declaration under this section.

28 Maximum penalty: 1 000 penalty units.

1 (9) A person commits an offence if the person contravenes a declaration
2 under this section.

3 Maximum penalty: 50 penalty units.

4 (10) An offence against subsection (9) is a strict liability offence.

5 **15 Undertaking by owners**
6 **Section 11 (3)**

7 *before*

8 contravene

9 *insert*

10 intentionally

11 **16 Declaration of area subject to importation restriction**
12 **Section 12 (5)**

13 *substitute*

14 (5) A declaration under this section may provide for its commencement
15 on or before the declaration's notification day.

16 *Note* This subsection provides express authority for a declaration to
17 commence on or before its notification day—see Legislation Act,
18 s 73 (2) (d) (General rules about commencement).

19 (6) However—

20 (a) a declaration may not provide for a commencement date or
21 time that would result in the declaration commencing before it
22 is made; and

23 (b) a declaration may not commence before it is notified under the
24 Legislation Act unless the Minister is satisfied that the
25 circumstances are of such seriousness and urgency that
26 commencement before notification is necessary to prevent a
27 disease or pest becoming established, or spreading, in the ACT.

Section 17

- 1 (7) If a declaration commences before it is notified under the
2 Legislation Act, the Minister must ensure that notice of the
3 declaration is broadcast in the ACT by television or radio as soon as
4 possible after it is made.
- 5 (8) A person commits an offence if the person intentionally contravenes
6 a declaration under this section.
- 7 Maximum penalty: 1 000 penalty units.
- 8 (9) A person commits an offence if the person contravenes a declaration
9 under this section.
- 10 Maximum penalty: 50 penalty units.
- 11 (10) An offence against subsection (9) is a strict liability offence.

17 Section 13*substitute***13 Direction for seizure, disinfection, destruction etc of plants etc**

- 16 (1) The Minister may, in writing, direct—
- 17 (a) an inspector to seize a stated plant, fruit, vegetable, vehicle or
18 another stated thing; or
- 19 (b) the owner or person in charge of premises or a plant, fruit,
20 vegetable or another thing to take the action stated in the
21 direction to disinfect the premises, plant, fruit, vegetable or
22 other thing; or
- 23 (c) the owner or person in charge of premises to destroy or treat a
24 stated plant, fruit, vegetable or another stated thing at the
25 premises; or
- 26 (d) an inspector or another person to take another stated action the
27 Minister considers necessary.

- 1 (2) The Minister may give a direction under subsection (1) only if the
2 Minister believes on reasonable grounds that the direction is
3 necessary or desirable to prevent a disease or pest becoming
4 established, or spreading, in the ACT.
- 5 (3) A direction given to a person other than an inspector must state the
6 time within which, and how, the disinfection, destruction, treatment
7 or other action must be taken.
- 8 (4) A person commits an offence if the person intentionally contravenes
9 a direction under this section.
- 10 Maximum penalty: 1 000 penalty units.
- 11 (5) Subsection (4) does not apply to a direction given to an inspector.
- 12 (6) In this section:
- 13 *vehicle* includes a caravan, trailer or vessel.

14 **18 Obligation to report notifiable diseases and pests**
15 **Section 16 (1) and (2)**

- 16 *substitute*
- 17 (1) A person commits an offence if the person—
- 18 (a) has reasonable grounds for believing that there is a notifiable
19 disease or a notifiable pest at premises; and
- 20 (b) does not report the existence of the disease or pest to the
21 Minister within 24 hours after becoming aware of the facts on
22 which those grounds are based.
- 23 Maximum penalty: 50 penalty units.
- 24 (2) An offence against this section is a strict liability offence.

Section 19

19 Identity cards
Section 20 (2)*substitute*

(2) A person commits an offence if the person—

- (a) was appointed as an inspector under section 19; and
- (b) ceases to be an inspector; and
- (c) does not return the person's identity card to the chief executive within 7 days after the day the person ceases to be an inspector.

Maximum penalty (subsection (2)): 1 penalty unit.

(3) An offence against subsection (2) is a strict liability offence.

20 General powers on entry to premises
Section 26 (2)*substitute*

(2) A person commits an offence if the person intentionally contravenes a requirement under subsection (1) (f).

Maximum penalty: 50 penalty units.

21 Power to require name and address
Section 27 (3) and (4)*substitute*

(3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 5 penalty units.

(4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the inspector does not produce his or her identity card for inspection by the person.

(5) An offence against this section is a strict liability offence.

22 Power to seize things
Section 28 (6)

substitute

- (6) A person commits an offence if the person intentionally interferes with a thing to which access has been restricted under subsection (5) (b).

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

- (7) Subsection (6) does not apply if the Minister approved the interference.

23 Sections 32 to 34

substitute

32 False or misleading information

- (1) A person commits an offence if the person—

(a) gives information in purported compliance with a requirement under this Act; and

(b) does so knowing that the information—

(i) is false or misleading; or

(ii) omits something without which the information is false or misleading.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person—

(a) gives information in purported compliance with a requirement under this Act; and

(b) is reckless about whether the information—

(i) is false or misleading; or

Section 23

- 1 (ii) omits something without which the information is false
2 or misleading.

3 Maximum penalty: 50 penalty units, imprisonment for 6 months or
4 both.

- 5 (3) Subsections (1) (b) (i) and (2) (b) (i) do not apply if the information
6 is not false or misleading in a material particular.

- 7 (4) Subsections (1) (b) (ii) and (2) (b) (ii) do not apply if the omission
8 does not make the information false or misleading in a material
9 particular.

- 10 (5) Subsection (6) applies if, in a prosecution for an offence against
11 subsection (1), the trier of fact is not satisfied that the defendant is
12 guilty of the offence, but is satisfied beyond reasonable doubt that
13 the defendant is guilty of an offence against subsection (2).

- 14 (6) The trier of fact may find the defendant guilty of the offence against
15 subsection (2), but only if the defendant has been given procedural
16 fairness in relation to that finding of guilt.

17 **33 False or misleading documents**

- 18 (1) A person commits an offence if the person—

- 19 (a) produces a document in purported compliance with a
20 requirement under this Act; and

- 21 (b) does so knowing that the document is false or misleading.

22 Maximum penalty: 100 penalty units, imprisonment for 1 year or
23 both.

- 24 (2) Subsection (1) does not apply if the document is not false or
25 misleading in a material particular.

- 26 (3) Subsection (1) does not apply to a person who produces a document
27 if the document is accompanied by a signed statement—

- 28 (a) stating that the document is, to the signing person's
29 knowledge, false or misleading in a material particular; and

- 1 (b) setting out, or referring to, the material particular in which the
2 document is, to the signing person's knowledge, false or
3 misleading.
- 4 (4) For subsection (3), the statement must be signed by—
- 5 (a) the person; or
- 6 (b) if the person who produces the document is a corporation—a
7 competent officer of the corporation.
- 8 (5) A person commits an offence if the person—
- 9 (a) produces a document in purported compliance with a
10 requirement under this Act; and
- 11 (b) is reckless about whether the document is false or misleading.
- 12 Maximum penalty: 50 penalty units, imprisonment for 6 months or
13 both.
- 14 (6) Subsection (5) does not apply if the document is not false or
15 misleading in a material particular.
- 16 (7) Subsection (8) applies if, in a prosecution for an offence against
17 subsection (1), the trier of fact is not satisfied that the defendant is
18 guilty of the offence, but is satisfied beyond reasonable doubt that
19 the defendant is guilty of an offence against subsection (5).
- 20 (8) The trier of fact may find the defendant guilty of the offence against
21 subsection (5), but only if the defendant has been given procedural
22 fairness in relation to that finding of guilt.

23 **34 Hindering or obstructing an inspector**

- 24 (1) A person commits an offence if the person obstructs or hinders an
25 inspector in the exercise of a function under this Act.
- 26 Maximum penalty: 50 penalty units, imprisonment for 6 months or
27 both.
- 28 (2) An offence against this section is a strict liability offence.

Endnotes

Republications of amended laws

- 1 For the latest republication of amended laws, see www.legislation.act.gov.au.

Penalty units

- 2 The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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