



# ENVIRONMENTAL DEFENDER'S OFFICE (ACT)

## Biodiversity: managing pests

March 2010 — Fact Sheet # 6

*Biodiversity in the ACT is threatened by pest plants and animals. Invasive species impact adversely on natural resources and agricultural activities.*

*The **Pest Plants and Animals Act 2005 (ACT)** establishes a system for declaring and managing pest plants and animals.*

### **Pest Plants and Animals Act 2005**

The *Pest Plants and Animals Act 2005* (Pest Act) creates a system to identify and control potential pest plants and animals in the ACT. It provides a strategic framework for pest management.

### **What are the objects of the Act?**

The objects of the Pest Act are to protect the ACT's land and aquatic resources from threats posed by pest plants and animals by identifying, declaring and then managing pest plants and animals [s.3].

### **What is a pest plant or animal?**

A pest plant or animal is one declared by the relevant Minister, currently the Minister for Territory and Municipal Services, to be a pest plant or animal. The Pest Act establishes a system for declaring plants and animals to be pests. The Minister can declare pests into two categories:

- notifiable pests – those pests whose presence must be notified to the Chief Executive [s.7(2)(a); 16(2)(a)]; and
- prohibited pests – pest plant species whose propagation and sale is prohibited [s.7(2)(d)] and pest animal species whose supply or keeping is prohibited [s.16(2)(b)].

In addition the Minister may declare that a plant is a pest plant that must be suppressed or contained [s.7(2)(b) and (c)].

### **What are some common pest species?**

There are over 80 pest animals and over 70 pest plants declared. They include wild rabbits, european wasps, african fountain grass and most willows. Pest plants are listed in the *Pest Plants and Animals (Pest Plants) Declaration 2009 (No 1)* DI2009-67. Pest animals are listed in the *Pest Plants and Animals (Pest Animals) Declaration 2005 (No 1)* DI2005-255.

### **How are pest plants and animals managed?**

Once a pest plant or animal is declared the Minister may prepare a pest management plan for the management of the pest species [ss 8 and 17]. A pest plant management plan can require suppression or destruction of a pest plant or containment if suppression or destruction is impractical [s.8]. Amongst other matters, a pest animal management plan can set out requirements for managing the environmental and agricultural impacts in a cost effective way if eradication is impractical [s.17].

### **What are directions issued under the Pest Act?**

Directions may be issued by the Chief Executive of the Department of Territory and Municipal Services to the occupier of premises to eradicate or control pest plants or pest animals consistent with declared management plans [s.25].



Some examples of actions that may be directed are to use chemicals or other means for managing or eradicating a pest plant or to take specific actions to reduce the presence of a pest animal.

Contravention of a pest management direction is an offence carrying a penalty of up to 50 penalty units (currently \$5,500 for an individual and \$27,500 for a corporation) [s.27]. Where a person has not undertaken something required by a direction, an authorised person may do so at the reasonable cost of the occupier [s.28].

### **Are certain activities prohibited?**

The Pest Act also prohibits certain activities by making the activity an offence, including:

- failure of an occupier to notify a pest plant or animal on their premises [ss.9 and 18];
- propagation of a prohibited pest plant [s.10];
- reckless importation of a prohibited pest plant [s.10A];
- commercial supply of a prohibited pest plant or pest animal [ss.11 and 19];
- reckless supply of a prohibited pest plant or pest animal, or material contaminated with prohibited pest plants or pest animals [ss.12 and 20];
- reckless use of vehicles and machinery contaminated with a prohibited pest plant or by a pest animal [ss.13 and 21];
- keeping a prohibited pest animal [s.22]; and
- reckless disposal of a prohibited pest plant or pest animal, or material contaminated with prohibited pest plants or by pest animals [ss.15 and 24].

In addition, under the *Nature Conservation Act 1980*, a person is prohibited from taking a pest plant into a wilderness area, national park or nature reserve [s.68 Nature Conservation Act].

The offences relating to native plants and animals provided for in the Nature Conservation Act, such as killing and taking animals and dealing in native plants, do not apply to pest plants and animals. This is because a 'native animal' and a 'native plant' are specifically defined in the Nature Conservation Act to exclude pest plants and animals.

### **Are there penalties for doing these activities?**

Under the Pest Act it is a criminal offence to undertake the prohibited activities set out in the Pest Act. Maximum penalties of 50 penalty units (currently \$5,500 for an individual and \$27,500 for a corporation) apply for most of the offences, except for the offences of failing to notify which apply a maximum penalty of 20 penalty units (currently \$2,200 for an individual and \$11,000 for a corporation)

Infringement notices can be issued under the *Magistrates Court (Pest Plants and Animals Infringement Notices) Regulation 2005* (ACT) SL2005–34 for specified activities, including the commercial supply of a prohibited pest plant or animal. The infringement notice system is intended to provide an alternative to prosecution and the penalties are lower.

### **Can I legally own or handle prohibited pest plants and animals?**

Permits may be sought from the Chief Executive of the Department of Territory and Municipal Services, in order to:

- propagate, import into the ACT, or supply a prohibited pest plant [s.14]; or
- supply a prohibited pest animal [s.23].

In both cases the Chief Executive may issue a permit only if they are convinced the action will not result in the spread of the prohibited pest plant or animal in a manner that would endanger the environment or agriculture. The permit may be subject to conditions.

### **When will the Pest Act be reviewed?**

The operation of the Pest Act is to be reviewed after five years of operation. It commenced in November 2005 and so the review will take place as soon as practicable after November 2010 [s.54].

**Disclaimer**

*The law described in this Fact Sheet is current at 31 March 2010.*

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*The ACT EDO Fact Sheets Project was carried out with the assistance of funds made available by the ACT Government under the ACT Environment Grants Program.*