

**EXPLANATORY MEMORANDUM**  
***BIOLOGICAL CONTROL AMENDMENT BILL 2016***

**Introduction**

The purpose of this Bill is to ensure that the *Biological Control Act 1986* covers the use of viral and sub-viral agents for biological control.

**Clause 1: Short title**

This clause states the short title of the Act.

**Clause 2: Commencement**

This clause provides for the commencement of the Act as follows:

- sections 1 and 2, on the day on which the Bill receives Royal Assent; and
- the rest of the Act on a day fixed by proclamation.

This will allow the co-ordination of timing of commencement of the substantive amendments with the legislation of the other Australian jurisdictions.

**Clause 3: Act amended**

This clause identifies the Act amended by the Bill, namely, the *Biological Control Act 1986*.

**Clause 4: Section 3 amended**

Subclause (1) deletes the current definition of “***prescribed live organisms***” which includes only “live organisms” and subclause (2) replaces it with a definition of “***prescribed organism***” which means “live organisms” or “viruses or sub-viral agents”. Both the old and the new definitions exclude live vaccines or resistant cultivars.

Subclause (3) includes viruses and sub-viral agents along with live organisms in the definition of “***kind***”, which means a species, sub-species or variety of these things.

Subclause (4) includes a virus or sub-viral agent in the definition of “***organism***”.

All these amendments are concerned with serving the fundamental purpose of the Bill – ensuring that in its references to organisms, viruses and sub-viral agents are included.

#### **Clause 5: Section 4 amended**

Section 4 of the Act prescribes which organisms are controllable by biological means. With the amendment, it will refer to organisms being taken to be controllable by biological means if, and only if, “those are organisms can be controlled by the release of prescribed organisms of another kind” (previously the reference was to “live organisms”).

#### **Clause 6: Part 9 inserted**

This clause inserts a new Part 9 at the end of the Act. This is a transitional provision (new section 60).

Section 5 of the Act, provides for the declaration of a law of the Commonwealth or a State (which includes the Northern Territory and Australian Capital Territory) to be a “relevant law” for the purposes of the Act. This declaration may be made in relation to laws of the other jurisdictions that have the same essential characteristics as the Western Australian Act and assists the operation of the national scheme.

Declarations of the Commonwealth Act and corresponding Acts of the other States as relevant laws were made when these Acts were passed in the 1980s.

The transitional provision ensures any relevant law declarations continue in effect after the commencement of amendments.

#### **Clause 7: References to prescribed live organisms amended**

This clause amends a number of provisions of the Act so that the term used in these provisions is “prescribed organism” rather than “prescribed live organism”.