

1996—No. 136

PLANT DISEASES ACT 1924—REGULATION

(Plant Diseases Regulation 1996)

NEW SOUTH WALES



[Published in Gazette No. 49 of 19 April 1996]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Plant Diseases Act 1924, has been pleased to make the Regulation set forth hereunder.

R. S. Amery
Minister for Agriculture.

Citation

1. This Regulation may be cited as the Plant Diseases Regulation 1996.

Commencement

2. This Regulation commences on 1 June 1996.

Definitions

3. (1) In this Regulation:

“**Director-General**” means the Director-General of the Department of Agriculture;

“**the Act**” means the Plant Diseases Act 1924.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 2.

Penalty notice offences

4. For the purposes of section 19 of the Act:

(a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence; and

- (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 1.

Short descriptions

5. (1) For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 is:

- (a) the expression specified in Column 2 of that Schedule; or
- (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

(2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.

(3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

Form of notice of intention to destroy plants

6. The notice to be given by the Minister under section 21 of the Act is to be in Form 1.

Notice of appeal against proposed destruction of plants

7. (1) For the purposes of section 21 (2) of the Act:

- (a) the prescribed manner for making an appeal is by lodging a notice of appeal with the Clerk of the Local Court nearest to the orchard or nursery concerned; and
- (b) the prescribed period for making the appeal is the period ending 14 days after the Minister's notice of intention to destroy plants is given.

(2) Within the same period a copy of the notice of appeal must be lodged by the appellant with the Director-General.

(3) The notice of appeal must be in Form 2.

Hearing of appeal

8. (1) At least 21 days' notice of the date and time for the hearing of an appeal is to be given by the Clerk of the Local Court to the appellant and the Director-General.

(2) The notice of the date and time for the hearing is to be in Form 3.

Repeal

9. (1) The Plant Diseases (General) Regulation 1991 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Plant Diseases (General) Regulation 1991, had effect under that Regulation continues to have effect under this Regulation.

SCHEDULE 1—PENALTY NOTICE OFFENCES

(Cll. 4, 5)

Column 1	Column 2	Column 3
Provision	Short description	Penalty
Section 26 (1) (a) of the Act	sell/bring onto/remove from premises plant/fruit/covering/thing infected/likely to be infected/imported/introduced/brought into NSW contrary s 4/5	\$200
Section 26 (1) (c) of the Act	do/attempt any act contrary s 4/5/ 5A/28A	\$200
Section 26 (1) (d) of the Act	fail/neglect to perform duty/obligation under s 5A/28A	\$200
Section 26 (1) (f) of the Act	possess plant/fruit/covering/package/goods/thing imported/introduced/brought into NSW contrary s. 4/5	\$200

SCHEDULE 2—FORMS

(Cl. 3)

Form 1

(Cl. 6)

**NOTICE BY MINISTER OF INTENTION TO DESTROY PLANTS IN
NEGLECTED OR ABANDONED ORCHARD OR NURSERY**

(Plant Diseases Act 1924)

To of

IT HAS BEEN REPORTED to me that an orchard/nursery* situated at

of which you are the owner/occupier* is habitually/has been for 2 years* neglected
abandoned* and that the orchard/nursery* is therefore likely to spread a certain disease/
pest* namely:TAKE NOTICE that I, the Minister for Agriculture, have decided to exercise the powers
conferred on me by section 21 of the Plant Diseases Act 1924 in connection with the
orchard/nursery*

Date:

.....

Minister for Agriculture.

*Delete whichever does not apply.

Form 2

(Cl. 7)

NOTICE OF APPEAL UNDER SECTION 21

(Plant Diseases Act 1924)

To the Clerk of the Local Court at

I..... am the owner/occupier* of an orchard/nursery* situated at

1996—No. 136

The Minister for Agriculture, on, gave notice to me that the Minister had decided to exercise the powers conferred on the Minister by section 21 of the Plant Diseases Act 1924 in connection with the orchard/nursery*.

TAKE NOTICE that I desire to appeal from the decision of the Minister to the Local Court on the following grounds:

Date:

Signature

Full postal address

.....

.....

*Delete whichever does not apply.

Form 3

(Cl. 8)

NOTICE OF HEARING OF APPEAL UNDER SECTION 21

(Plant Diseases Act **1924**)

TAKE NOTICE that has notified an intention to appeal against a decision of the Minister for Agriculture under section 21 of the Plant Diseases Act 1924, and that the appeal will be heard at the Local Court at on at 10 a.m. or as soon after that time as the other business of the Court will permit.

Date:

.....

Clerk of the Local Court.

TABLE OF PROVISIONS

1. Citation
2. Commencement
3. Definitions
4. Penalty notice offences
5. Short descriptions
6. Form of notice of intention to destroy plants
7. Notice of appeal against proposed destruction of plants
8. Hearing of appeal
9. Repeal

SCHEDULE 1—PENALTY NOTICE OFFENCES

SCHEDULE 2—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the Plant Diseases (General) Regulation 1991 under the Plant Diseases Act 1924. The new Regulation deals with the following matters:

- (a) penalty notices for the purposes of section 19 of the Act (clause 4);
- (b) short descriptions for the purposes of section 145B of the Justices Act 1902 (clause 5);
- (c) the form of notice to be given of the Minister's intention to destroy plants (clause 6);
- (d) the manner and form for making an appeal against the Minister's intention to destroy plants (clause 7);
- (e) the notice that must be given for the hearing of such an appeal (clause 8);
- (f) other minor, consequential and ancillary matters (clauses 1, 2, 3 and 9).

This Regulation is made under the Plant Diseases Act 1924, including section 28 (the general regulation making power) and sections 19 and 21.

This Regulation relates to matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
