

## PLANT DISEASES ACT.

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Act No. 38, 1924.

An Act to make further provision to prevent the introduction into New South Wales of diseases and pests affecting plants or fruit; to provide for the eradication of such diseases and pests, and to prevent the spread thereof; to make certain provisions with regard to the sale and grading of fruit and vegetables; to provide for the registration of orchards and nurseries; to make certain provisions as to cotton plants; to repeal the Vine and Vegetation Diseases and Fruit Pests Act, 1912; to amend the Fruit Cases Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 17th December, 1924.]

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No. 38. } **BE** it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
the same, as follows:—

*Preliminary.*

Short title. **1.** This Act may be cited as the "Plant Diseases Act,  
1924."

Repeal and  
saving. **2.** (1) The Vine and Vegetation Diseases and Fruit  
Pests Act, 1912, is hereby repealed.

(2) All persons appointed under the said Act, and  
holding office at the commencement of this Act, shall  
be deemed to have been appointed under this Act.

(3) All proclamations published, and all regula-  
tions made under the said Act, and in force at the  
commencement of this Act, in so far as they are not  
inconsistent with this Act, shall be deemed to have been  
published or made under this Act.

Interpreta-  
tion. **3.** In this Act, unless the context or subject-matter  
otherwise requires,—

"Covering" or "package" includes any case, box,  
bag, wrapper, packing, or material of what-  
soever description used or intended to be used  
for packing.

"Disease" means any disease of plants or fruit  
which the Governor may by proclamation  
published in the Gazette declare to be a disease,  
and includes any such disease at any stage of  
its existence.

"Fruit" means apples, apricots, bananas, cherries,  
currants, figs, gooseberries, grapes, loquats,  
nectarines, lemons, mandarins, oranges, passion-  
fruit, peaches, pears, persimmons, pineapples,  
plums, or quinces, or any other edible product  
of a plant which the Governor may by procla-  
mation published in the Gazette declare to  
be fruit for the purposes of this Act; and  
includes the peel, skin, or shell of any fruit  
before referred to.

"Infected"

- “ Infected ” means infected with disease or pest.
- “ Inspector ” means inspector appointed under this Act.
- “ Nursery ” means any land or premises whereon or wherein plants are grown for the purpose of sale or disposal in their living state.
- “ Occupier ” includes any person having the charge, control, or management of any orchard, nursery, land, or premises.
- “ Orchard ” means any place where fruit-producing plants are grown.
- “ Owner ” includes the holder of any lease or license from the Crown and any person deriving title thereunder.
- “ Pest ” means any organism belonging either to the animal or vegetable kingdom which the Governor may by proclamation published in the Gazette declare to be a pest.
- “ Plant ” means any tree, vine, flower, shrub, vegetable, or other vegetation which the Governor may by proclamation published in the Gazette declare to be a plant; and extends to the seeds of a plant and to every part of a plant whether attached to the plant or separate therefrom; but does not extend to fruit as defined in this section.
- “ Prescribed ” means prescribed by this Act or the regulations.
- “ Regulations ” means regulations made under this Act.
- “ Sell ” includes offering or attempting to sell, exposing for sale, and sending, forwarding, or delivering for sale.
- “ Vegetables ” means potatoes, onions, green peas, green beans, or any other vegetable which the Governor may by proclamation published in the Gazette declare to be a vegetable.

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*Governor's proclamation.*

Power to  
prohibit the  
introduction  
of things  
likely to  
introduce  
disease.

**4.** (1) The Governor may by proclamation published in the Gazette prohibit the importation, introduction, or bringing into the State (or into any specified portion thereof) either generally or from any country or place, or the bringing into one portion of the State from any other portion of—

(a) any plant, fruit, or other thing of any nature or kind whatsoever which in his opinion is likely to introduce any disease or pest into the State or into any specified portion thereof, as the case may be ; or

(b) any covering or goods in, or with which, any such plant, fruit, or thing has been contained, or packed, or with which it has come in contact ; or

(c) anything which is infected.

(2) Such prohibition may be absolute or conditional.

(3) The Governor may at any time revoke or vary such proclamation.

Power to  
appoint  
places of  
entry and  
quarantine.

**5.** (1) The Governor may by proclamation published in the Gazette—

(a) appoint any specified ports or places to be the only ports or places of entry into the State for plants or fruit or for any specified kind of plants or fruit ;

(b) appoint quarantine stations where plants may be grown, or where plants, fruit, coverings, or any thing of any nature or kind whatsoever which has come in contact with plants or fruit may be inspected, disinfected, destroyed, or otherwise disposed of ;

(c) prohibit the use, storage, or carriage within the State or within any specified portion thereof of coverings in or with which any plant or fruit has been contained or packed or of any thing which is likely to convey any disease or pest ;

(d)

- (d) prohibit the removal from any place of any plant or fruit either absolutely or subject to conditions specified in the proclamation; George V,  
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- (e) require owners or occupiers of any land or premises either throughout the State or within any specified portion thereof to take such measures, including the uprooting and destruction of plants, fruit, or packages, and to do such acts as are specified in the proclamation for the treatment of any disease or pest or the prevention of the spread thereof, and may further require that such measures shall be taken or such acts done at any time or times specified in the proclamation.

(2) The Governor may at any time revoke or vary such proclamation.

**6.** The Minister may by notification published in the Gazette declare any land therein described to be a quarantine area on account of the presence or suspected presence of any disease or pest, and may by a like notification suspend or extend for any period or cancel any such notification or any quarantine ordered to be imposed by an inspector in accordance with this Act. Declaration  
of quarantine  
area.  
1923, No. 34,  
s. 9.

**7.** (1) The Minister may, if he thinks fit, instead of declaring land to be a quarantine area, accept an undertaking in the prescribed form given by the owner or occupier of the land to comply with the requirements mentioned therein. Undertaking  
in certain  
cases.  
*Ibid.*, s. 10.

(2) Upon any such undertaking being given, the land mentioned therein shall for the period therein specified be deemed to be a quarantine area, and the person giving the undertaking shall comply with all the terms and conditions thereof.

**8.** (1) Where land is by the provisions of this Act quarantined, the quarantine may be general or in respect of a particular disease or pest. Quarantine.  
*Ibid.*, s. 13.

(2) The nature of the quarantine shall be stated in the notice or notification imposing the quarantine or in the undertaking given with respect to any land or plants or fruit under the provisions of section seven of this Act.

(3)

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(3) A quarantine may be imposed or declared for a disease or pest although the land is already in quarantine for another disease or pest.

(4) The course of action to be taken by the owner or occupier of land when the land is directed to be quarantined shall be as prescribed by regulation, or if there is no regulation applicable thereto, then as directed by the Minister.

(5) The Minister may by notification in the Gazette apply to any specified part of a quarantine area special and more drastic regulations than those which may be operating in the rest of the quarantine area.

(6) The Minister may by a like notification direct that all plants of a particular class and the fruit thereof within a quarantine area or within some specified part of a quarantine area shall be treated for the disease or pest in respect of which the quarantine is imposed whether the plants or fruit are diseased or infected or not.

Seizure of  
plants.

**9.** (1) Any plant, fruit, covering, or other thing which is dealt with or disposed of in any way contrary to any direction or prohibition contained in any proclamation or any direction given by an inspector or in any way contrary to the regulations may be seized by an inspector or by any person authorised in writing by the Minister either generally or specifically, and when so seized shall be destroyed or otherwise dealt with in such manner as the Minister shall direct.

(2) Any expense thereby incurred shall be recoverable by an inspector in any court of competent jurisdiction from either the owner or the person in charge of such plant, fruit, covering, or thing.

Notice to be  
given of  
appearance  
of disease.

**10.** (1) The occupier of any land or premises in which any disease or pest appears shall, within twenty-four hours after first discovering or becoming aware of its appearance, give written notice thereof to an inspector or to the Under Secretary of the Department of Agriculture.

(2) This section applies only in respect of the diseases and pests to which it is made applicable by the Governor by proclamation published in the Gazette.

*Inspectors*

*Inspectors and their powers and duties.*George V,  
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**11.** Inspectors may be appointed for the purposes of this Act under the provisions of the Public Service Act, 1902. The inspectors shall have the powers and perform the duties prescribed.

Appointment  
of inspectors.

**12.** (1) An inspector may employ such assistants as he deems necessary in carrying out the provisions of this Act.

Employment  
of assistants  
and use of  
force.

(2) Every person who obstructs, hinders, threatens, or assaults any inspector or assistant whilst in the performance of his duty shall be guilty of an offence.

**13.** (1) An inspector may enter any land or premises, upon or in which is any fruit, plant, covering or package, and may stop and enter or board any conveyance or vessel, and search and inspect the same for the purpose of ascertaining whether the same or any part thereof or anything thereon or therein is infected, and may for the purpose aforesaid inspect roots of plants and take samples, open packages, and do such other things as he may deem necessary or expedient.

Power of  
entry and  
search.

(2) If an inspector is satisfied that any plant, fruit, covering, goods, conveyance, vessel, or thing is infected, he shall give notice to the owner or person in charge thereof, and on receipt of such notice such owner or person shall forthwith take such measures and do such acts as are prescribed.

Power to  
order infected  
things to be  
dealt with.

**14.** An inspector may serve on the owner or occupier of any land or premises a notice requiring him to take such measures or do such acts as are specified in such notice, or are prescribed, to prevent the spread of any disease or pest.

Power to  
require owner  
or occupier of  
orchard to  
prevent  
spread of  
disease.

**15.** (1) Whenever disease or pest exists on any land or premises an inspector may serve on the owner or occupier a notice requiring him to quarantine the land and premises and the plants thereon for a period of not exceeding twenty-one days, and to take such measures or do such acts as are specified in such notice or are prescribed.

Steps to be  
taken when  
orchard is  
infected.

(2) Such notice may name a time at which the doing of anything thereby required shall be commenced and a time within which it shall be completed.

**16.**

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Recovery of  
expenses.

**16.** In case of any default in compliance with the terms of—

- (a) any notice given by an inspector under sections thirteen, fourteen, or fifteen of this Act;
- (b) any direction given by the Minister in accordance with this Act;
- (c) any proclamation issued under this Act,

the Minister may authorise an inspector to do or cause to be done all such things as are necessary in order to comply with the terms of any such notice, direction, or proclamation, and the expenses thereby incurred shall be recoverable by an inspector in any court of competent jurisdiction from the person guilty of the default.

Power to  
destroy  
infected  
plants,  
coverings, &c.

**17.** An inspector may destroy, fumigate, or otherwise dispose of any plants or fruit which are infected, or any coverings with which such plants or fruit have been contained or packed or any other fruit or coverings with which they have come in contact.

Power to  
question  
vendors of  
fruit.

**18.** An inspector may require any person having in his possession or under his control any fruit or plants for sale, to answer any questions relating to such fruit or plants.

Any person who refuses to answer any such question to the best of his knowledge, or who wilfully makes a false answer to the same or any part thereof shall be guilty of an offence against this Act.

#### *Registration.*

Orchards and  
nurseries to  
be registered.

**19.** (1) Every orchard and nursery, unless exempted by the Minister, shall be registered by the person in the manner and at the time prescribed. The application for such registration shall be accompanied by the prescribed fee. Such fee shall not exceed one shilling per acre of the land comprised in the orchard or nursery.

(2) The fees in respect of the registration of orchards and nurseries shall be paid into a special account at the Treasury.

(3) The Colonial Treasurer shall, upon the recommendation of the Minister, pay out of such special account, moneys—

- (a) to any society registered under the Co-operation, Community Settlement, and Credit Act, 1923, which has among its objects the promotion of the production, treatment, and sale of fruit;

(b)



- (b) to any other association or body of persons who, to the satisfaction of the Minister, will wholly apply such moneys to the promotion of the further production, treatment, and sale of fruit;
- (c) to be used in any other manner which the Minister deems to be best calculated to develop or protect the fruit-growing industry;
- (d) to any person whose property has been destroyed as compensation for such destruction.

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(4) Any moneys so paid other than moneys paid under paragraph (d) of subsection three of this section shall be expended for such purposes in furtherance of the interests of the fruitgrowers or nurserymen of New South Wales as in any particular case the Minister may approve or generally as may be prescribed.

(5) The expenditure of any moneys so paid other than moneys paid under paragraph (d) of subsection three of this section shall be accounted for in such manner as may be prescribed.

*Certificated nurseries.*

**20.** (1) The Minister may, whenever he thinks fit, and shall, on request made to him by the owner or occupier, cause an inspector to inspect any nursery, and if on inspection it is found that the plants in such nursery are free from a particular disease or pest the Minister, or any officer authorised by the Minister in that behalf, may give to the owner or occupier a certificate in the form prescribed. Such certificate shall have effect for the time mentioned therein.

(2) The Minister may cancel any such certificate, and if a certificate is cancelled the person to whom the certificate was issued shall on demand forward it to the Minister.

(3) Any person who falsely pretends that he is the holder of any such certificate shall be guilty of an offence.

*Abandoned orchards and nurseries.*

**21.** (1) If an inspector reports to the Minister that any orchard or nursery is habitually, or has been for a period of two years, uncultivated or neglected, and that any such orchard or nursery by reason of neglect is likely to spread disease or pest, the Minister may give notice

Power to  
destroy  
plants in an  
abandoned  
orchard or  
nursery.

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No. 38. notice to the owner or occupier that he has decided to exercise the powers conferred upon him by this section. Any person aggrieved by a decision of the Minister under this subsection may appeal therefrom to a court of petty sessions presided over by a stipendiary or police magistrate in the manner prescribed.

(2) If within a period to be prescribed an appeal has not been lodged by such person or his appeal has proved unsuccessful the Minister may cause all plants in the orchard or nursery, which in the opinion of an inspector are likely to harbour or spread any disease or pest, to be destroyed, and any cost thereby incurred may be recovered by an inspector in any court of competent jurisdiction from either the owner or occupier of such orchard or nursery.

*Cotton plants.*

Destruction  
of cotton  
plants.

**22.** The Governor may by proclamation published in the Gazette require the owner or occupier of land or premises either throughout the State or within any portion thereof specified in the proclamation to uproot and destroy all cotton plants in such manner and within such time as is specified in the proclamation.

*Miscellaneous.*

Owner to  
have right of  
entry.

**23.** The owner of any land or premises which is or are in the occupation of another person as lessee or otherwise shall have full right of entry on and into the same, and of remaining thereon and therein for the purpose of the performance of any duty or obligation imposed upon him under this Act or the regulations.

Any person who hinders or obstructs the performance by any other person of any duty or obligation imposed on him under this Act or the regulations shall be guilty of an offence.

Notices to  
be given in  
writing.

**24.** Any notice to be given to any person under this Act or the regulations shall be in writing, and may be served on such person personally, or left at or posted by registered letter to his usual or last known place of abode in this State, or if such person or his address is unknown or if he has no place of business or place of abode in this State, then service may be effected by affixing the notice in a conspicuous place on the land to which the notice relates.

**25.**

**25.** No person shall be entitled to compensation by reason of anything done by any inspector or other person in the exercise of any power or the discharge of any duty or obligation conferred or imposed by this Act or the regulations, or in respect of any loss or injury that may directly or indirectly result therefrom unless the same was occasioned wilfully, negligently, or maliciously.

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Persons not  
entitled to  
compensa-  
tion.

**26.** (1) Every person commits an offence against this Act who, himself or by his servant or agent—

Offences.

- (a) knowingly and without reasonable cause sells or brings upon or removes from his premises any plant, fruit, covering, or thing of any nature or kind whatsoever which is infected or which is likely to convey infection or which has been introduced into this State in contravention of the provisions of any proclamation or regulation under this Act; or
- (b) being the owner or occupier of any orchard or nursery, sells any plant or fruit from such orchard or nursery, while such orchard or nursery is not registered in accordance with the provisions of this Act unless such orchard or nursery is exempted from registration; or
- (c) does or attempts to do any act in breach of the provisions of this Act, or of any proclamation or regulation thereunder; or
- (d) without reasonable excuse fails or neglects to perform any duty or obligation imposed on him by this Act, or by any proclamation or regulation thereunder; or
- (e) without reasonable excuse fails or neglects to comply with any direction given by the Minister or the requirements of any notice served upon him or given to him by an inspector under this Act or the regulations.

(2) Any person who commits any offence against this Act or the regulations shall (if no other penalty is specified) be liable to a penalty not exceeding fifty pounds.

Penalties.

(3) Where in any proceeding against any person for an offence against this Act or the regulations knowledge of the accused must be shown, such knowledge shall be presumed unless and until the contrary

contrary

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(4) In any such proceeding, in addition to any other method of proof available, evidence that the person proceeded against appears by the rate book of the council of the municipality or shire to be the owner or occupier of the land in respect of which the proceeding is taken shall be evidence until the contrary is proved that such person is the owner or occupier, as the case may be, of the land.

Recoverable  
expenses of  
authorised  
inspector.

**27.** Where an inspector or person authorised by the Minister carries out any work under the provisions of section nine or section sixteen or subsection two of section twenty-one of this Act, the expenses recoverable by an inspector shall include a proportionate part of the salary or wages of the person carrying out the work, having regard to the time occupied by him in carrying out the work and in travelling for such purpose, and the necessary expenses incurred in connection with such travelling.

Regulations.

**28.** (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act 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 and without limiting the generality of the foregoing power, the Governor may make regulations with respect to the following matters—

- (a) the examination, detention, treatment or destruction of any thing, including plants, fruit, and coverings, in order to eradicate or lessen the risk of disease or pest, or to prevent any disease or pest attacking or being harboured thereon or therein;
- (b) the registration of orchards and nurseries;
- (c) the branding or labelling of coverings containing fruit or plants;
- (d) the grading and packing of fruit or vegetables;
- (e) the inspection of and the granting of certificates as to the quality and condition of fruit, plants, or vegetables intended for sale or export;
- (f)

- (f) prescribing the payment and recovery of fees generally under this Act, including fees— George V,  
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- (i) for registration under this Act ;
  - (ii) in respect of any inspection, disinfection, or destruction by an inspector at any port of entry or quarantine station ;
  - (iii) for the granting of any certificate as to quality or condition.

(2) Such regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) Such regulations shall—

- (i) be published in the Gazette ;
- (ii) take effect from the date of publication or from a later date to be specified therein ; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

*Fair average quality of fruit and vegetables  
to be indicated.*

**29.** (1) No person shall sell any fruit or vegetables unless such fruit or vegetables are so packed or arranged that the outer layer or shown surface thereof is a true indication of the fair average quality of the whole of such fruit or vegetables. Sale of fruit,  
&c., not up to  
fair average  
quality.

The fact that more than ten per centum of such fruit or vegetables is substantially smaller than or inferior to the outer layer or shown surface of such fruit or vegetables shall be prima facie evidence that the fair average quality of such fruit or vegetables is not truly indicated.

(2) No person shall sell any fruit or vegetables contained in any package which also contains any foreign substance in a greater proportion than is prescribed.

(3)

**Voluntary Wheat Pool Guarantee Act.**

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(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding twenty pounds.

(4) In any proceedings for a breach of any of the provisions of this section, it shall be a sufficient defence if the person proceeded against satisfies the court that the fruit or vegetables in respect of the sale of which the proceedings are taken were sold by him in the package in which they were received without repacking or the admixture of any foreign substance.

*Amendment of Fruit Cases Act, 1912.*

Amendment  
of Act 72 of  
1912, s. 7.

**30.** Section seven of the Fruit Cases Act, 1912, is amended by omitting from paragraph (a) of subsection one the words "Vines and Vegetation Diseases Act, 1901, or Fruit Pests Act, 1906" and inserting in lieu thereof the words "Plant Diseases Act, 1924."