

## Act No. 34, 1912.

An Act to consolidate the Acts relating to a certain vine disease and to vegetation diseases and to certain fruit pests. [26th November, 1912.]

VINE AND  
VEGETATION  
DISEASES AND FRUIT  
PESTS.  
—

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows:—

### PART I.

#### REPEAL AND PRELIMINARY.

**1.** This Act may be cited as the "Vine and Vegetation Diseases and Fruit Pests Act, 1912," and is divided into Parts as follows:—

PART I.—REPEAL AND PRELIMINARY—*ss.* 1-3.

PART II.—VINE DISEASE—*ss.* 4-66.

*Interpretation*—*s.* 4.

*Prevention of Disease*—*ss.* 5-13.

*Vine Districts*—*ss.* 14-18.

*Boards*—*ss.* 19-46.

*Rating*

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*Rating*—ss. 47-53.

*Subsidy*—s. 54.

*Compensation*—ss. 55-61.

*Void agreements*—s. 62.

*Appropriation of penalties*—s. 63.

*Regulations*—ss. 64, 65.

*Errors in proclamations*—s. 66.

**PART III.—VEGETATION DISEASES AND FRUIT PESTS—ss. 67-83.**

*Interpretation*—s. 67.

**DIVISION 1.—Vegetation Diseases.**

*Prevention of Diseases*—ss. 68-72.

*Actions*—ss. 73, 74.

*Regulations*—s. 75.

**DIVISION 2.—Fruit Pests.**

*Appointment of inspectors*—s. 76.

*Treatment of fruit pests*—ss. 77, 78.

*Certification of nurseries*—s. 79.

*Service of notices and orders*—s. 80.

*Compensation*—s. 81.

*Regulations*—s. 82.

*Offences under Part III*—s. 83.

**PART IV.—RECOVERY OF MONEYS AND PENALTIES—ss. 84, 85.**

Repeal.

**2.** (1) The Acts mentioned in the First Schedule hereto are hereby repealed.

Boards and officers  
under repealed Acts.

(2) All boards and persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

Proclamations and  
regulations under  
repealed Acts.

(3) All proclamations published and regulations made under the authority of the Acts hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been published and made under the authority of this Act; and references in any such proclamations and regulations to the provisions of any Act hereby repealed shall be construed as references to the corresponding provisions of this Act.

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**3.** In this Act unless the context or subject matter otherwise indicates or requires—

General  
interpretation.  
No. 14, 1901, s. 3.

“ Prescribed ” means prescribed by this Act or any regulation made thereunder.

“ Proclamation ” means a proclamation published in the Gazette.

## PART II.

## VINE DISEASE.

*Interpretation.*

**4.** In this Part of this Act and in all proclamations and regulations made thereunder unless the context or subject-matter otherwise indicates or requires—

Interpretation.  
*Ibid.* s. 4.

“ Board ” means the board of a vine district.

“ Disease ” means the disease in grape vines caused by the insect “ phylloxera vastatrix.”

“ Diseased ” means affected with or liable to be affected (by reason of having been in contact with vines, grapes, packages, implements, matters, or things likely to convey infection) with disease as hereinbefore defined.

“ District ” means a vine district proclaimed under this Part of this Act.

“ District inspector ” means an inspector appointed by a board as hereinbefore defined.

“ Inspector ” means an inspector of vineyards appointed by the Minister.

“ Quarantine ” means a parcel of land or a building set apart for the reception of vines or grapes known or supposed to be diseased.

“ Ratable value ” means the value of a vineyard as entered in the assessment roll of a district.

“ Vine ” means a grape-vine alive or dead and any cutting or part of a grape-vine.

“ Vineyard ” means any parcel of land whereon one or more vines are planted or growing.

“ Root up ” means to remove the whole of the original cutting layer or stock with at least six inches of the roots attached.

*Prevention*

*Vine and Vegetation Diseases and Fruit Pests.**Prevention of disease.*

- 5.** The Governor may from time to time by proclamation—
- (a) prohibit the introduction into New South Wales from any place outside New South Wales of vines, grapes, or packages containing, or which have contained or been in contact with, vines or grapes the introduction of which has been or is hereafter prohibited;
- (b) prohibit the removal from one place to another within New South Wales of vines, grapes, packages, implements, matters, or things likely to convey disease;
- (c) declare any parcel of land or any building a quarantine;
- (d) isolate in the prescribed manner any quarantine or any vineyard, building, land, or place wherein or whereon there are or have recently been diseased vines or grapes.
- 6.** (1) The Minister may appoint such persons as he thinks fit to be inspectors of vineyards.
- (2) An inspector may exercise any of his powers in any part of New South Wales.
- 7.** An inspector may with or without notice—
- (a) enter at any time, with or without assistants, any vessel, building, land, or place containing vines or grapes introduced into New South Wales, and search therein for diseased vines or grapes, remove therefrom vines or grapes to a quarantine for further examination, and destroy vines or grapes found to be diseased;
- (b) enter, with or without assistants, any vineyard and examine vines and grapes therein, and by notice in the form contained in the Second Schedule hereto temporarily isolate a vineyard in which he finds disease or any sign thereof, pending report to the Minister and action thereon;
- (c) periodically inspect the vineyards within vine districts and report to the Minister where and in what respect the board of any district or its officers are failing to give effect to the provisions of this Act.
- 8.** (1) Upon the report of an inspector that disease or sign of disease is found in any vineyard not within a vine district, or within a vine district to which a district inspector has not been appointed, the Minister may hold an inquiry, and upon proof that disease actually exists therein the Governor may—
- (a) isolate such vineyard and all vineyards within a radius of one mile therefrom;
- (b) prohibit the removal from such vineyard of any vines, grapes, packages, implements, matters, or things;
- (c)
- Introduction of vines, &c., into New South Wales may be prohibited.  
No. 14, 1901, s. 5.
- Removal of things likely to cause disease may be prohibited.  
*Ibid.*
- Quarantines may be declared.  
*Ibid.*
- Power to isolate vineyards, &c.  
*Ibid.*
- Appointment of inspectors.  
*Ibid.* s. 6 (1).
- Jurisdiction of inspectors.  
*Ibid.*
- Powers of inspectors.  
*Ibid.* s. 7.
- To search for diseased vines.
- To temporarily isolate vineyards.
- To report to Minister if a board is not carrying out its duties.
- Powers of Governor on proof of disease.  
*Ibid.* s. 8.
- To isolate vineyards.
- To prohibit removal of vines, &c.

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(c) cause all vines in such vineyard and in any vineyard within a radius of one mile therefrom to be rooted up, the land thoroughly trenched, all vines destroyed by fire, and such other precautionary measures taken as are deemed necessary to prevent the spread of disease. To destroy vines and cleanse lands.

(2) Upon proof that no disease exists in the vineyard mentioned in the inspector's report the Minister shall immediately release such vineyard from isolation.

**9.** (1) If the owner, lessee, or occupier of a vineyard ceases for two years to cultivate it any inspector or district inspector may serve him with a notice to root up all vines therein. Neglected vineyards. No. 14, 1901, s. 9.

(2) If such owner, lessee, or occupier omits to root up the vines within three months after service of such notice the Minister or board may cause the vines to be rooted up, and upon proof that the sum claimed has been expended in rooting up vines upon the owner's land may recover from the owner the cost of rooting up in any court of summary jurisdiction.

**10.** (1) Every owner, tenant, or person in charge of a vineyard shall immediately notify in writing to an inspector, district inspector, or to the Minister, the appearance of any sign which may reasonably be suspected to be caused by disease. Vine-growers to notify appearance of disease. Ibid. s. 10.

(2) Every such owner, tenant, or person who wilfully neglects to give the prescribed notification shall, on conviction, be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months. Penalty.

**11.** (1) No vines shall be planted in any land from which diseased vines have been removed for a period of four years from such removal. Diseased vineyard not to be replanted. Ibid. s. 11.

(2) Whosoever commits a breach of this section shall, on conviction, be liable to a penalty not exceeding one hundred pounds. Penalty.

(3) All vines planted on such land within the period aforesaid shall be destroyed by an inspector or district inspector. Inspector to destroy vines wrongfully planted.

**12.** Whosoever sells, offers, or exposes for sale any grapes or vines infected with disease shall, on conviction, be liable to a penalty not exceeding five pounds in addition to any other penalty provided in this Part of this Act. Penalty for selling infected vines or grapes. Ibid. s. 12.

**13.** Any person who refuses to allow any inspector or district inspector to enter, at any reasonable time, his vineyard, ship, boat, store, or other building, premises, or place to examine, or impedes, hinders, or attempts to impede or hinder, any inspector or district inspector from inspecting or examining any vine, grapes, case, box, barrel, or other receptacle or package after the production of his authority by such inspector or district inspector shall, in addition to any other penalty provided in this Part of this Act, be liable, on conviction, to a penalty not exceeding five pounds for each offence, or, if the offence be continuous, for each day during which the offence is continued. Penalty for obstructing any officer. Ibid. s. 13.

*Vine and Vegetation Diseases and Fruit Pests.**Vine districts.*

Proclamation of districts.  
No. 14, 1901, s. 14.

- 14.** (1) The Governor may by proclamation—  
 (a) declare any portion of New South Wales a vine district;  
 (b) alter the boundaries or name of any district;  
 (c) divide any district into two or more districts;  
 (d) unite any two or more districts into one;  
 (e) abolish any district.

(2) Upon the report of an inspector that disease or sign of disease is found in any vineyard not within a district the Minister may cause inquiry to be made, and on proof that disease actually exists therein the Governor may by proclamation declare a vine district including such vineyard.

Transfer of liabilities and property on division of districts.  
*Ibid.* s. 15.

**15.** Whenever a district is divided into two or more districts the liabilities duly incurred by the board of the original district shall be transferred in such proportions as the Governor directs to the boards of the districts into which the original district is divided, and all moneys, rates, and property belonging to or due or becoming due to the board of the original district shall be apportioned between the boards of the districts into which the original district is divided as the Governor directs.

Transfer of liabilities and property on union of districts.  
*Ibid.* s. 16.

**16.** Whenever a district is united with another district the liabilities duly incurred by the boards of the several districts shall be transferred in such proportions as the Governor directs to the board of the united district, and all moneys, rates, and property due or becoming due to the several districts shall be transferred to the board of the united district, who shall have power to collect and recover the same.

Transfer of liabilities and property on abolition of district and redistribution of its area.  
*Ibid.* s. 17.

**17.** Whenever a district is abolished and its area distributed among other districts, the liabilities duly incurred by the board of the abolished district shall be transferred in such proportion as the Governor directs to the boards of the other districts, and the moneys, rates, and property of the abolished district due and becoming due shall be apportioned amongst the other districts as the Governor directs, and may be collected and recovered by the boards of the other districts in respect of property comprised within the area assigned to them.

Liabilities and property where district is abolished and its area not redistributed.  
*Ibid.* s. 18.

**18.** Whenever a district is abolished and its area is not distributed among other districts, the liabilities of the board of the abolished district and its moneys and property shall be dealt with as the Governor directs.

*Boards.*

*Ibid.* s. 19.

**19.** Whenever a vine district is proclaimed, the Governor may take steps to secure the election or appointment of a board.

Board to consist of five members.  
*Ibid.* s. 20.

**20.** (1) A board shall consist of five members being vine-growers on the roll of the district, who shall be elected as hereinafter provided and shall hold office until the next general election.

Board to act without remuneration.  
*Ibid.*

(2) No member of a board shall receive any payment for his services.

**21.**

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**21.** Every board shall upon its election or appointment have and exercise within its district all the powers conferred upon the Governor and the Minister by section eight hereof. Powers of board to deal with disease. No. 14, 1901, s. 21.

**22.** (1) Every board may subject to the approval of the Governor appoint one or more district inspectors. District inspectors. Ibid. s. 22.

(2) A district inspector shall, within the district to which he is appointed, have all the powers conferred upon an inspector by section seven, subsections (a) and (b), except that a temporary isolation notified by a district inspector shall continue pending his report to the board of the district and action thereon. Powers of district inspectors. Ibid.

**23.** Every board may appoint such other officers as it considers necessary. Ibid. s. 23.

**24.** Every board may pay out of the funds at its disposal the salaries and allowances of the district inspector and other officers. Salaries. Ibid. s. 24.

**25.** Any inspector or officer of a board who wilfully violates or omits to comply with, or neglects or refuses to enforce, any provisions of this Part of this Act, or any regulations thereunder, which he is required to comply with or enforce shall, on conviction, be liable to a penalty not exceeding fifty pounds. Penalty on inspector or officer. Ibid. s. 25.

**26.** (1) Upon the receipt of a report from an inspector that the officers of any board are failing to carry out the provisions of this Act the Minister may call upon the board to show cause why its officers should not be dismissed. Governor may dismiss board's officers. Ibid. s. 26.

(2) If the board fails to show cause to the satisfaction of the Minister he may recommend to the Governor that its officers be dismissed and the Governor may dismiss the officers.

**27.** (1) Upon a district being proclaimed the Minister shall forthwith cause a list to be made containing the name in full and address of each vine-grower in the district and the extent of the vineyard owned by him. List of vine-growers in new district. Ibid. s. 27.

(2) The said list when completed, or a copy thereof, shall be exhibited for seven days at every petty sessions court-house within the district, and notice that the list is so exhibited shall be published in one or more newspapers circulating in the district. Publication of list. Ibid.

**28.** Within seven days after the first exhibition of the said list any person may lodge with a police magistrate or clerk of petty sessions within the district a notice requiring, Revision of list. Ibid. s. 28.

(a) the insertion in the list of the name of any vine-grower omitted therefrom;

(b) the striking out of the name of any vine-grower improperly inserted therein;

(c) the correction of any error appearing in the list.

**29.** (1) The Minister may at any time after the expiration of the said period of seven days cause a police magistrate to hold a court Revision court. Ibid. s. 29.

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for the revision of the list, who shall hear evidence on oath and determine all questions raised by notices duly lodged and revise the list in accordance with his determination.

Vine-growers' roll.  
No. 14, 1901, s. 29.  
Return to be made  
by owners or  
occupiers.  
*Ibid.* s. 30.

(2) The list when so revised shall become the vine-growers roll for the district.

**30.** (1) Every owner or occupier of a vineyard within a district shall, on or before the first day of December in each year, deliver or forward by registered letter to the chairman of the board, or, if there be no board, to the officers appointed by the Governor, a return in the form of the Third Schedule hereto, stating the number of acres planted with vines owned or occupied by him.

(2) For the purpose of such return any fraction of an acre shall be deemed an acre.

Penalty for  
neglecting to make  
return.  
*Ibid.*

(3) Every owner or occupier who refuses or neglects to make such return within the prescribed time shall, on conviction, be liable to a penalty not exceeding five pounds.

Penalty for making  
false return.  
*Ibid.*

(4) Every owner or occupier who makes a false return shall, on conviction, be liable to a penalty not exceeding five pounds.

Board to make out  
list from returns.  
*Ibid.* s. 31.

**31.** (1) From the returns so made the board shall compile a list of vine-growers of the district.

List to be revised  
and thereupon to  
become the roll.  
*Ibid.*

(2) Such list shall be published and revised in the manner provided by sections twenty-seven, twenty-eight, and twenty-nine in regard to the list of vine-growers of a newly-proclaimed district, and, when revised, shall become the vine-growers roll for the district.

Old roll may be used.  
*Ibid.*

(3) Until a roll is compiled and revised for the current year the existing roll shall be used as the roll for the district.

Election of first  
board.  
*Ibid.* s. 32.

**32.** (1) The first election of a board shall be held at the place and time appointed by the Governor.

Subsequent  
elections.  
*Ibid.*

(2) The vine-growers in each district shall, in the month of September following the first election, and thereafter annually, elect a board.

Retiring members  
eligible.  
*Ibid.*

(3) Retiring members of a board shall, unless disqualified, be eligible for re-election.

Appointment of  
returning officers.  
*Ibid.* s. 33.

**33.** (1) The Governor may appoint a returning officer to conduct elections in any district.

Roll to be forwarded  
to returning officer.  
*Ibid.*

(2) A copy of the vine-growers' roll shall be forwarded to the returning officer forthwith after revision.

Nomination days.  
*Ibid.* s. 34.

**34.** (1) The returning officer shall for the purposes of every election appoint a time and place for the receipt of nominations.

(2) Not less than fourteen days' notice of such time and place shall be given in one or more newspapers published or circulating in the district.

Nominations to be  
in writing.  
*Ibid.*

(3) Every nomination shall be in writing signed by two or more vine-growers on the roll and shall contain the consent of the person nominated.

(4)



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(4) If within the time appointed the number of qualified persons nominated does not exceed five the returning officer shall, at the expiration of such time, declare the persons so nominated to be elected members of the board.

If no more than five nominations, returning officer to declare nominees elected.  
No. 14, 1901, s. 34.

(5) If three or four members are elected under the last subsection the remaining vacancies shall be filled as provided in section thirty-six hereof.

Where three nominees are elected.  
*Ibid.*

(6) If less than three members are elected under subsection four of this section the returning officer shall hold another election to fill the vacant seats.

Where less than three nominees are elected.  
*Ibid.*

(7) If more qualified persons than the number to be elected are nominated the returning officer shall appoint a day for taking a poll and one or more polling-places, and shall give not less than fourteen days' notice of such times and places in one or more newspapers published or circulating in the district.

Where nominees exceed five, poll to be taken.  
*Ibid.*

(8) The returning officer may appoint a deputy returning officer to preside at each polling place.

Deputy returning officers.  
*Ibid.*

(9) When a poll is taken voting shall be by ballot, at which each vine-grower on the roll shall be entitled to the prescribed number of votes.

Voting by ballot.  
*Ibid.*

(10) The returning officer shall, as soon as convenient after the poll has been taken, declare elected as many of the candidates who have received the highest number of votes as are required to fill the vacant seats.

Declaration of poll.  
*Ibid.*

(11) The names of the elected members shall be published in the Gazette.

**35.** If no candidates are nominated or elected at an election the Governor may appoint five vine-growers on the roll to be a board, who shall, subject to the provisions hereinafter made respecting vacancies on and dissolution of boards, hold office until the next general election.

In case no members are elected the Governor may appoint a board.  
*Ibid.* s. 35.

**36.** (1) Any member of a board who is absent from three consecutive meetings without leave duly granted by the board shall forfeit his seat.

Absence from meetings.  
*Ibid.* s. 36.

(2) If any member of a board dies, resigns, refuses to act, or from any cause whatever becomes incapable of acting, his seat may be declared vacant by the board.

Death or resignation  
*Ibid.*

(3) A vacancy or vacancies occurring by reason of the causes mentioned in this section, or by reason of three or four members only being elected under subsection five of section thirty-four, shall be filled by the members of the board from the vine-growers on the roll.

Vacancies how filled.  
*Ibid.*

**37.** (1) Whenever an inspector reports that a board is failing to carry out the provisions of this Act the Minister may call upon such board to show cause why it should not be dissolved, and may, if the board fails to show cause to his satisfaction, recommend its dissolution to the Governor, who may thereupon dissolve the board.

Dissolution of board.  
*Ibid.* s. 37.

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(2) If the vine-growers of the district convene a meeting under the next section the Minister may stay his action until the result of the meeting is known.

Vine-growers may convene meeting and dissolve board.  
No. 14, 1901, s. 38.

**38.** (1) If a board fails to hold its first meeting within fourteen days after a general election, or fails to act, or fails or refuses to carry out the provisions of this Act, any seven vine-growers on the roll may convene a meeting of vine-growers and call upon the board to attend thereat and show cause to the satisfaction of the meeting why it should not be dissolved.

(2) If the board fails at the meeting of vine-growers to show cause the meeting may declare the seats of the members of the board vacant and call upon the returning officer to hold another election.

If vine-growers do not convene meeting the Governor may appoint officers.  
*Ibid.*

(3) If a board fails or refuses to meet or carry out the provisions of this Act, and the vine-growers of the district do not call a meeting under the last two subsections, the Governor may appoint officers to carry out within the district the provisions of this Act, who shall have all the powers of a board.

First meeting.  
*Ibid.* s. 39.

**39.** Every board shall hold its first meeting within fourteen days after a general election.

Chairman.  
*Ibid.* s. 40.

**40.** (1) The members present at the first meeting shall elect a chairman, who shall, when present, preside at all meetings of the board.

Acting chairman.  
*Ibid.*

(2) If the chairman is absent from any meeting at which there is a quorum the members present shall appoint an acting chairman, who shall at such meeting exercise all the powers of the chairman.

Quorum.  
*Ibid.* s. 41.  
Adjournment for want of quorum.  
*Ibid.*

**41.** (1) A quorum shall consist of not less than three members.

(2) If a quorum be not present within half an hour of the time appointed for a meeting any member or officer of the board present may adjourn the meeting to another hour of the same day or to any hour on another day.

(3) Notice of an adjournment shall be given as far as practicable to every absent member.

Decision of questions.  
*Ibid.* s. 42.

**42.** All questions considered at a meeting shall be decided by a majority of the votes, and if the votes on any question are equal the chairman shall have a casting vote in addition to his deliberative vote.

Record of proceedings.  
*Ibid.* s. 43.

**43.** (1) The proceedings of every meeting and the names of the members present shall be entered in a book, and such entries shall be signed by the chairman of the meeting at which such proceedings are confirmed.

(2) All entries of proceedings so confirmed and signed shall be received in all courts as evidence of the matters recorded.

Moneys received by board to be banked.  
*Ibid.* s. 44.

**44.** All moneys received by any officer of a board shall in the time and manner prescribed be paid over to the treasurer, and all moneys received by the treasurer of any board shall, in the time and manner prescribed, be paid by him into a bank to the credit of an account in the name of the board.

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**45.** All moneys disbursed by the board shall be paid by cheques drawn upon the bank account aforesaid, and all cheques shall be signed by the chairman or acting chairman and the treasurer. Moneys to be disbursed by cheque. No. 14, 1901, s. 45.

**46.** The accounts of every board shall at least once in each year be audited by an officer appointed by the Governor or by a competent accountant, and a statement of such accounts, when audited, shall be forthwith published in the Gazette and in one or more newspapers circulating in the district. Accounts to be audited and published. Ibid. s. 46.

*Rating.*

**47.** (1) Every board may impose and levy annually a rate not exceeding one pound per centum of the value of each vineyard as entered in the assessment roll of the district. Amount of rate. Ibid. s. 47.

(2) A board may whenever it is necessary to liquidate claims for compensation, or to meet other liabilities, levy within any year a rate to the full amount of one pound per centum, or two or more equal rates amounting in the aggregate to one pound per centum.

**48.** (1) Forthwith after imposing any rate the board shall prepare an assessment roll which shall set out the amount of the rate payable in respect of every vineyard in the district. Assessment roll to be prepared. Ibid. s. 48.

(2) The assessment roll, after careful revision and consideration of any appeal from such rating, shall be signed by the chairman and treasurer of the board, and shall be evidence of the amount payable as rate on each vineyard named therein, and of the person liable to pay such rate. Assessment roll to be evidence. Appeal. Ibid.

**49.** (1) The board shall when imposing a rate fix the date on which the rate is payable. Payment of rate. Ibid. s. 49.

(2) The date fixed shall not be less than fourteen days after the rate has been imposed.

(3) Every owner or occupier of a vineyard shall within the period named by the board pay the rate to the treasurer or collector of the board.

**50.** (1) A notice of every rate imposed, signed by the chairman and treasurer of the board, shall, within fourteen days after the rate was imposed, be published in the Gazette, and also in one or more newspapers circulating in the district. Notice of rate to be published. Ibid. s. 50.

(2) Every such notice shall specify the amount of the rate per pound and the date on which the same is payable. Notice to specify date for payment.

**51.** (1) Every rate imposed under this Part of this Act shall be payable in the first instance by the occupier of the vineyard. Occupier liable to pay rate in the first instance. Ibid. s. 51.

(2) Unless otherwise expressly provided in any lease or agreement, the occupant, if a tenant, may recover from his landlord one-half the amount of the rate paid by or recovered from him as money paid to the use of the landlord, or may deduct it from, or set it off against, the rent then due or thereafter to become due. **52.**

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Unoccupied vineyards.  
No. 14, 1901, s. 52.  
Recovery of rates.  
*Ibid.* s. 53.

**52.** The owner of any unoccupied vineyard shall be deemed the occupier, and any rate due in respect thereof shall be paid by or be recovered from such owner.

**53.** The collector or other officer of the board authorised by the chairman may, after the expiration of one month from the date of payment specified in any rate notice, sue for and recover the rate mentioned in such notice if still unpaid.

*Subsidy from Government.*

Subsidy not exceeding rates collected in a year.  
*Ibid.* s. 54.

**54.** The Minister may out of the consolidated revenue in any year pay to a board by way of subsidy any sum of money, not exceeding the amount of rates collected during the year by the board, which may in his opinion be necessary for carrying out the provisions of this Part of this Act.

*Compensation.*

*Ibid.* s. 55.

**55.** Compensation may be claimed—

- (a) In respect of the rooting up of any vineyard in which there is no disease to an amount not exceeding the ratable value of the vineyard.
- (b) In respect of the rooting up of vines in any vineyard on account of being diseased to an amount not exceeding fifty pounds per centum of the ratable value of the vineyard.

Where compensation is not recoverable.  
*Ibid.* s. 56.

**56.** Notwithstanding anything contained in this Part of this Act no compensation shall be recovered—

- (a) By any person in respect of any vines which have been rooted up by the Minister or board under section nine.
- (b) By any person where the owner, tenant, or person in charge of a vineyard has wilfully neglected to comply with the provisions of section ten hereof.
- (c) In respect of any loss sustained by reason of or in connection with the destruction of diseased vines or grapes brought into New South Wales, or packages which contain or have contained or come in contact with such vines or grapes.
- (d) In respect of any loss sustained by reason of or in connection with the destruction of any vines, grapes, packages, or implements introduced into New South Wales from any place outside New South Wales, or removed from one place to another within New South Wales in violation of any proclamation under this Part of this Act.

Claims for compensation to be made to the Minister or board.  
*Ibid.* s. 57.

**57.** (1) Claims for compensation shall be made to the Minister where a vineyard has been rooted up by an inspector under the direction of the Minister, and to the board of the district where the vineyard has been rooted up by a district inspector.

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(2) All claims shall be made within six months after the vineyard has been rooted up, and shall be in the prescribed form. Claims to be made within six months. No. 14, 1901, s. 57.

**58.** (1) Every claim for compensation shall be referred to an inspector or district inspector, who shall estimate the amount of compensation to which the claimant is entitled. Estimate by inspector or district inspector. Ibid. s. 58.

(2) If the claimant and the inspector or district inspector do not agree upon the amount to be awarded the claim shall be referred to the Minister or the board, as the case may be, or, at the option of the claimant, may be referred to arbitration, according to the provisions of the Act for the time being in force for the settlement of disputes by arbitration. Reference to Minister or board or arbitrator. Ibid.

(3) The decision of the Minister or the board or the arbitrator as to the amount of compensation to be paid shall be final. Decision to be final. Ibid.

(4) Upon any such reference the Minister or the board may take evidence on oath and for that purpose may administer oaths. Evidence on oath. Ibid.

**59.** No member of a board nor an inspector or district inspector interested directly or indirectly in any claim for compensation or in any vineyard the subject of a claim shall take part in determining the amount of compensation to be awarded. Persons interested not to act. Ibid. s. 59.

**60.** Where a lump sum is awarded as compensation in respect of a vineyard which is let, leased, or mortgaged, or over the crop of which any person has a lien, the sum awarded may be apportioned and paid to the landlord, tenant, mortgagee, or lienee in the proportions agreed upon with the inspector or district inspector, or as the Minister, board, or arbitrator determines. Apportionment of compensation. Ibid. s. 60.

**61.** (1) When the amount of compensation is agreed upon between the inspector and the claimant, or determined by the Minister or arbitrator, the same shall be paid out of the consolidated revenue within three months. Payment of compensation. Ibid. s. 61.

(2) When the amount of compensation is agreed upon between the district inspector and the claimant, or determined by a board or an arbitrator, the same shall be paid out of the funds at the disposal of such board.

*Void agreements.*

**62.** No tenant shall be bound by any agreement or lease to contravene the provisions of this Part of this Act. Lessees not bound to contravene Act. Ibid. s. 62.

*Appropriation of penalties.*

**63.** (1) All penalties and sums of money recovered under this Part of this Act by any officer appointed by the Governor or authorised by the Minister shall be paid into the public revenue. To the public revenue. Ibid. s. 63.

(2) All penalties and sums of money recovered under this Part of this Act by any officer of a board shall be paid to the treasurer of the board to which such officer belongs. To boards. Regulations.

*Vine and Vegetation Diseases and Fruit Pests.**Regulations.*

Power of Governor.  
No. 14, 1901, s. 64.

**64.** The Governor may make all such regulations as may from time to time appear to him necessary for carrying into effect the several provisions of this Part of this Act, and all regulations so made shall, after publication in the Gazette, have the same force and effect as if embodied in and forming part of this Act:

Provided that all such regulations shall be laid before Parliament within fourteen days after publication if Parliament be then sitting; if not, then within fourteen days after the commencement of the next session of Parliament.

Power of board.  
*Ibid.* s. 65.

**65.** The board of any district may make regulations for regulating its own proceedings, and the powers and duties of its officers, and generally for enforcing and giving effect to the provisions of this Part of this Act in relation to all matters within the district to which it belongs, and all such regulations, after publication in the Gazette, shall, if not inconsistent with this Part of this Act, have the same force and effect as if embodied in and forming part of this Act.

*Errors in proclamations.*

Rectification of errors.  
*Ibid.* s. 66.

**66.** (1) Any error in any proclamation made under this Part of this Act may be rectified by any subsequent proclamation, and after the rectification of the error the original proclamation shall be deemed to have been made and shall be read as corrected.

(2) No misnomer, inaccurate description, or omission in any such proclamation shall in anywise suspend or impair the operations of this Part of this Act with respect to the matter so misdescribed or omitted.

## PART III.

## VEGETATION DISEASES AND FRUIT PESTS.

*Interpretation.*

Interpretation.  
*Ibid.* s. 67.

**67.** In this Part of this Act, unless the context or subject matter otherwise indicates or requires—

“Disease” means any disease affecting plants, and which the Governor by proclamation in the Gazette declares to be a disease within the meaning of this Part of this Act, and whether or not caused by or consisting of the presence of insects or fungus.

“Diseased”

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- “Diseased” means affected with disease. No. 14, 1901, s. 67.
- “Fruit” means the edible product of any plant, and includes the peel, skin, or shell of such product, and also the seeds of such plant, whether such fruit is or is not attached to the plant. No. 37, 1906, s. 2.
- “Fruit pest” means the codlin moth (*Carpocapsa pomonella*), any species of fruit fly (*Tephritidæ*), and includes any such fruit pest in whatever stage of existence it may be. *Ibid.*
- “Fungus” means any fungus or vegetable parasite whatever which the Governor by proclamation in the Gazette declares to be a fungus within the meaning of this Part of this Act. No. 14, 1901, s. 67.
- “Insect” means any insect whatever which the Governor by proclamation in the Gazette declares to be an insect within the meaning of this Part of this Act, and includes any such insect in whatever stage of existence it may be. *Ibid.*
- “Inspector” means an inspector appointed under Division 2 of this Part of this Act and includes an inspector of vineyards appointed under Part II of this Act. No. 37, 1906, s. 2.
- “Minister” means the Secretary for Agriculture. *Ibid.*
- “Nursery” means any place where plants or fruit trees are grown for sale. *Ibid.*
- “Owner” or “occupier” includes the agent of the owner or occupier, and also any joint owner or joint occupier. *Ibid.*
- “Owner” includes any person holding land under any lease or license from the Crown, or deriving title from, under, or through him. *Ibid.*
- “Plant” means any tree, vine, flower, shrub, vegetable, or other vegetation of economic value, and extends to the seed, fruit, or other product of such plant, and to every part thereof, whether attached to or separate therefrom. No. 14, 1901, s. 67.

DIVISION 1.—*Vegetation Diseases.**Prevention of diseases.*

- 68.** (1) The Governor may by proclamation prohibit—
- (a) the importation, introduction, or bringing into New South Wales (or any portion thereof specified in the proclamation) of any plant which in his opinion is likely to introduce any disease or insect; Importation of plant likely to introduce disease or insect prohibited. *Ibid.* s. 68.
- (b) the bringing into one portion of New South Wales from another portion specified in the proclamation of any plant which in his opinion is likely to spread any disease or insect. Removal of plant likely to spread disease or insect prohibited. *Ibid.* s. 68.
- 69.** (1) Every such prohibition may be absolute or contingent on the non-performance of any prescribed conditions. *Ibid.* s. 68.
- (2) The Governor may at any time alter or revoke any proclamation hereunder. *Ibid.* s. 69.

*Vine and Vegetation Diseases and Fruit Pests.*

Importation of insect or fungus prohibited.  
No. 14, 1901, s. 70.

**70.** No person shall import, introduce, bring, or cause or knowingly permit to be imported, introduced, or brought into New South Wales any insect or fungus, except for scientific purposes only and with the consent of the Minister.

Insects, fungi plants, packages, &c., may be destroyed.  
*Ibid.* s. 71.

**71.** Any insect, fungus, or plant imported, introduced, or brought into New South Wales contrary to this Division of this Part of this Act, or to any proclamation made thereunder, and any diseased plant imported, introduced, or brought into New South Wales, and any package or thing containing, or suspected to contain or to have contained, any such diseased plant, may forthwith be seized by any person authorised in writing by the Minister, either generally or specifically, and shall be destroyed or otherwise dealt with as the Minister directs.

Power to enter.  
*Ibid.* s. 72.

**72.** Any person authorised in writing by the Minister may at any time enter upon any vessel, ship, or place, with or without assistants, and search for insects and fungi and diseased plants and packages likely to convey disease, and may remain there for that purpose so long as is reasonable.

*Actions.*

Limitation of actions.  
*Ibid.* s. 73.

**73.** No action shall be brought against any person for anything done by him in pursuance of any authority conferred by or under this Division of this Part of this Act unless the same be commenced within four months next after the thing complained of has been done.

No authorised person liable for damage unless wilful.  
*Ibid.* s. 74.

**74.** No person acting in pursuance of any authority conferred by or under this Division of this Part of this Act shall be deemed to be a trespasser by reason of any entry or removal or destruction, or be liable for any damage occasioned in carrying out the provisions thereof or of any proclamation or regulation made thereunder, unless the damage was occasioned by such person wilfully and without necessity.

*Regulations.*

Powers of Governor.  
*Ibid.* s. 76.

**75.** (1) The Governor may, subject to the provisions of this Division of this Part of this Act, make regulations for all or any of the following purposes, namely:—

- (a) For prescribing the form of notices and orders to be given and made under this Division of this Part of this Act, and the time when and manner in which such notices are to be given and served.
- (b) For prescribing the conditions under which the plants named in a proclamation made under section sixty-eight of this Act may be introduced or brought into New South Wales or any portion of New South Wales.
- (c) For prescribing penalties for the breach of any such regulation not exceeding, for a first offence, one pound, and not exceeding, for any subsequent offence, ten pounds.
- (d) Generally for carrying into effect the provisions of this Division of this Part of this Act.

(2)



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(2) All such regulations upon being published in the Gazette shall be as valid in law as if the same were enacted in this Act, and shall be judicially noticed, and all such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be then sitting; and if Parliament be not sitting, then within fourteen days after the commencement of the next session of Parliament.

To be laid before Parliament.  
No. 14, 1901, s. 4.

*DIVISION 2.—Fruit Pests.*  
*Appointment of inspectors.*

**76.** (1) The Minister may appoint such persons as he thinks fit to be inspectors under this Division of this Part of this Act.

Inspectors.  
No. 37, 1906, s. 3.

(2) An inspector may exercise any of his powers in any part of New South Wales.

*Treatment of fruit pests.*

**77.** (1) An inspector may enter any land or building, with or without assistants, and search for fruit pests and plants and packages likely to convey any fruit pest, and may remain there so long as may be reasonably necessary for the purpose of making such search.

Power to enter upon land, &c.  
*Ibid.* s. 4.

(2) If the inspector finds, on search being made as aforesaid, that any fruit pest or plant or package likely to convey any fruit pest is in or upon any land or building he shall so report to the Minister. And the Minister may thereupon, by notice in writing served on the owner or occupier of the said land or building, require him, within a time therein mentioned, to take such measures and do such acts as may be specified in the notice for the treatment or the destruction of such fruit pest, plant, or package, and further notify him that in default of compliance with the said requirement an authorised person will, in pursuance of this Division of this Part of this Act, take the said measures and do the said acts at the expense of the said owner or occupier.

Notice to owner or occupier to treat diseases.  
*Ibid.*

(3) If the said owner or occupier is of opinion that the notice is unnecessary, or that the measures required to be taken, or the acts required to be done, or any of them, are unnecessary or unreasonable, he may, within the time mentioned in the notice as aforesaid, apply in the prescribed manner, to a police or stipendiary magistrate or any two justices, in a summary way, for an order cancelling or varying the notice, and shall forthwith notify in writing to the Minister the fact that the said application has been made. And such magistrate or justices may make such order in the premises as he may think just.

Appeal to magistrate from notice.  
*Ibid.*

(4) If the said owner or occupier—  
(a) has not, within the time mentioned in the notice, complied with the requirements of the notice nor applied as aforesaid to cancel or vary the notice; or

Treatment of fruit pest, &c., if notice or order not complied with.  
*Ibid.*

(b)

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(b) has not, within the time limited in any order of a magistrate made as aforesaid, complied with the order or with a notice as varied by the order,

an inspector may, with or without assistants, enter the land or building and take the measures and do the acts mentioned in the said notice or order, and may recover the cost thereof from the said owner or occupier in any court of competent jurisdiction.

Destruction of fruit, diseased plants, &c., by order of Minister. No. 37, 1906, s. 5.

**78.** If in the opinion of the Minister the destruction of any fruit or plant infected by any fruit pest, or any package or thing likely to convey any fruit pest, whether the same was or was not imported, introduced, or brought into this State, is a matter of necessity and extreme urgency, he may forthwith make an order in writing directing the destruction of such fruit, plant, package, or thing by any person referred to in such order; and the said fruit, plant, package, or thing shall be destroyed accordingly, and the cost of such destruction, if incurred by any person other than the owner, shall be defrayed by such owner.

*Certification of nurseries.*

Certification of nurseries for plants. *Ibid.* s. 6.

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

(2) The Minister may cancel any such certificate if at any time during the period mentioned therein it is found, on inspection, that any plant in the nursery in respect of which the certificate was issued has become infected by any fruit pest or other disease, and the person to whom such certificate was issued shall, on demand, deliver it up.

(3) Any person who falsely pretends that he is the holder of any such certificate shall be liable to a penalty not exceeding fifty pounds.

*Supplemental.*

Service of notices and orders. *Ibid.* s. 7.

**80.** (1) A notice or order may be served by delivering the same, or a true copy thereof, to any person at the residence of the person to whom it is addressed. When the land or building in respect of which the notice or order is directed to be served is unoccupied, and the owner is absent from New South Wales, or is unknown to the Minister, service may be effected by affixing the notice, order, or a true copy thereof in some conspicuous place on the land or building.

(2)

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(2) It shall not be necessary in any such notice or order to specify the name of the occupier or owner if the land or building the subject of the notice or order is therein referred to.

**81.** No person shall be entitled to receive any compensation whatsoever in consequence of any measures taken under this Division of this Part of this Act for the treatment or destruction of any fruit pest, plant, or package, or in respect of any damage that may result to him therefrom, either directly or indirectly, unless the same was occasioned wilfully, negligently, or without necessity.

No compensation for damage occasioned by carrying out this Division of this Part of this Act unless wilful.

No. 37, 1906, s. 9.

**82.** The Governor may, subject to the provisions of Division 1 of this Part of this Act relating to regulations made thereunder, make regulations for securing the effectual treatment or destruction of any fruit pest, or any plant or package infected by or likely to convey any fruit pest.

Regulations.

*Ibid.* s. 10.

*Offences under Part III.*

**83.** Whosoever—

(a) in any manner obstructs or impedes, or attempts to obstruct or impede, any person acting under the authority of this Part of this Act; or

(b) disobeys or fails to comply with any provision, proclamation, direction, or order of or under this Part of this Act;

shall be guilty of an offence, and shall, on conviction, be liable to a penalty not exceeding twenty pounds.

Obstructing officer.

No. 14, 1901, s. 75.

Disobedience to provisions of Act, &c.

*Ibid.*

## PART IV.

## RECOVERY OF MONEYS AND PENALTIES.

**84.** All sums of money recoverable from any person under this Act and all penalties imposed by this Act or regulations thereunder may be recovered before two or more justices of the peace or a stipendiary or police magistrate in a summary manner according to the provisions of the Act or Acts for the time being regulating proceedings before justices.

*Ibid.* s. 77.

**85.** No proceedings shall be taken under Part III or this Part of this Act against any owner of any land or building in the occupation of any person, to recover any expenses or any penalty for failing to comply with any notice or order to treat or destroy any fruit pest, plant, or package until due measures have been taken to recover such expenses or penalty from the occupier.

Proceedings against occupier in first instance.

No. 37, 1906, s. 8.

## SCHEDULES

Act No. 34, 1912.

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SCHEDULES.

Sec. 2.

FIRST SCHEDULE.

Reference to Act.	Short title.
No. 14, 1901 ... ..	Vine and Vegetation Diseases Act, 1901.
No. 37, 1906 ... ..	Vine and Vegetation Diseases (Fruit Pests) Act, 1906.

Sec. 7 (b).

SECOND SCHEDULE.

*Notice of temporary isolation.*

Notice is hereby given that I have from this day forth isolated the vineyard owned or occupied by you situated [*insert situation of vineyard*]. Such vineyard will continue isolated until released therefrom by order of the [*insert Minister or chairman of the board as the case may require*].

(Signed)

Inspector (or District Inspector).

Sec. 30.

THIRD SCHEDULE.

*Vine District.*

Return of the number of acres planted with vines in the vineyard owned or occupied by the undersigned.

Name and address.	Portion No. and parish.	Area planted with vines.	Remarks.

I                    of                    do solemnly and sincerely declare that I am the [*owner and occupier or occupier as the case may be*] of the vineyard abovenamed, and that the above return contains a just and true account of the several matters therein set forth respecting the same vineyard.

(Signature)