

New South Wales

Plant Diseases Amendment Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Plant Diseases Act 1924* (*the principal Act*):

- (a) to allow the Minister to make orders (rather than the Governor making proclamations as is presently the case) regulating or prohibiting the importation or introduction of any thing that is likely to introduce plant diseases or pests into the State or any part of the State, and
- (b) to allow inspectors to issue permits that authorise a person, or class of persons, to move plants, fruit, coverings, goods or other things that are infected or that may have come into contact with, or are likely to introduce or spread, plant pests or diseases or to move plants, fruit, coverings, goods or other things into, or out of, a quarantine area.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Plant Diseases Act 1924 No 38

Currently, section 4 of the principal Act provides that the Governor may, by proclamation published in the Gazette, regulate or prohibit the importation or introduction into the State, or the bringing into one portion of the State from any other portion of the State, any plant, fruit, covering, good or other thing which, in the Governor's opinion, is likely to introduce or spread any disease or pest. **Schedule 1 [1]** amends that section to enable the Minister, rather than the Governor, to exercise that power by order instead of by proclamation.

Schedule 1 [4] also amends section 4 of the principal Act to enable the Minister to make an urgent order regulating or prohibiting the importation or introduction into the State of any thing that is likely to introduce or spread any disease or pest by publishing the order in a newspaper circulating, or by radio or television broadcast, in the area to which the order applies or by causing a copy of the order to be published on the Department's internet website. The order must be published in the Gazette as soon as practicable after being made. **Schedule 1 [2], [3], [5], [6], [7], [9] and [10]** make consequential amendments.

Schedule 1 [8] inserts proposed section 16A into the principal Act which enables an inspector to issue a permit to a person, or class of persons, that authorises the moving of infected plants and fruit or plants, fruit, coverings, goods or other things that have come into contact with infected plants or fruit or that are likely to introduce or spread any disease or pest or the moving of plants or fruit into, or out of, a quarantine area.

Schedule 1 [11] enables the making of regulations relating to applications for permits under the principal Act, including a fee for any such application.

Schedule 1 [12] enables the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [13] provides that an existing proclamation made by the Governor that regulates or prohibits the importation or introduction of things that are likely to introduce or spread any disease or pest is taken to be an order made by the Minister under section 4 of the principal Act.

First print

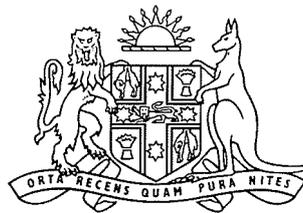


New South Wales

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New South Wales

Plant Diseases Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *Plant Diseases Act 1924* with respect to orders to prevent the introduction or spread of diseases and pests affecting plants or fruit; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Plant Diseases Amendment Act 2010</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1	Amendment of Plant Diseases Act 1924	1
	No 38	2
[1]	Section 4 Power to regulate or prohibit the introduction of things likely to introduce disease	3
	Omit “Governor may by proclamation published in the Gazette” from section 4 (1).	4
	Insert instead “Minister may by order published in accordance with subsection (3)”.	5
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[2]	Section 4 (1) (a)	9
	Omit “Governor’s”. Insert instead “Minister’s”.	10
[3]	Section 4 (2)	11
	Omit “a proclamation”. Insert instead “an order”.	12
[4]	Section 4 (3) and (4)	13
	Insert after section 4 (2):	14
	(3) An order made by the Minister under this section is to be published in the Gazette. However, if the Minister considers the order is required urgently, the order may be published:	15
	(a) in a newspaper circulating, or by radio or television broadcast, in the area to which the order applies, or	16
	(b) on the Department’s internet website.	17
	(4) If an order is published in accordance with subsection (3) (a) or (b), the Minister is to publish the order as soon as practicable in the Gazette.	18
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[5]	Sections 13 (1), (1A) (a) and (1B) (a) (ii) and 26 (1) (c) and (d)	24
	Omit “proclamation,” wherever occurring.	25
[6]	Section 16 Recovery of expenses	26
	Omit section 16 (c).	27
[7]	Section 16	28
	Omit “, order or proclamation”. Insert instead “or order”.	29

[8] Section 16A	1
Insert after section 16:	2
16A Permits	3
(1) An inspector may, on application or on the inspector's own initiative, issue a permit authorising a person, or class of persons, to move:	4
(a) any plants or fruit that are infected or which, in the inspector's opinion, are likely to cause the introduction or spread of any disease or pest, or	5
(b) any covering or goods in, or with, which plants or fruit referred to in paragraph (a) have been contained, or packed, or with which the covering or goods have come into contact, or	6
(c) any other thing which, in the inspector's opinion, is capable of causing the introduction or spread of any disease or pest, or	7
(d) any plant, fruit, covering, goods or other thing into, or out of, a quarantine area.	8
(2) A permit has effect for the period of time, and subject to any conditions, specified in the permit.	9
(3) The inspector may specify such conditions as the inspector thinks fit having regard to the plants, fruit, covering, goods or thing to be moved, or the disease or pest, to which the permit relates.	10
(4) An inspector may, at any time, revoke or vary a permit, or a condition of a permit.	11
(5) A permit is issued or a permit or condition is revoked or varied:	12
(a) in the case of a permit issued to a particular person—by means of an instrument in writing given to the person, or	13
(b) in the case of a permit issued to a specified class of persons—by means of an instrument published on the Department's internet website or published in any other manner that, in the opinion of the Director-General, is most likely to bring it to the attention of the persons who will be affected by it.	14
(6) A person is not guilty of an offence under section 26 in respect of the movement of any plants, fruit, covering, goods or thing that is done in accordance with a permit issued under this section.	15
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[9] Section 26 Offences	1
Omit “a proclamation, notification or undertaking” from section 26 (1) (a) (ii).	2
Insert instead “any order, notification or undertaking”.	3
[10] Section 26 (1) (f)	4
Omit “proclamation”. Insert instead “order”.	5
[11] Section 28 Regulations	6
Insert after section 28 (1) (aii):	7
(b) applications for permits under section 16A, and fees in relation to any such permits,	8 9
[12] Schedule 3 Savings and transitional provisions	10
Insert at the end of clause 1 (1):	11
<i>Plant Diseases Amendment Act 2010</i>	12
[13] Schedule 3, Part 5	13
Insert after Part 4:	14
Part 5 Provision consequent on enactment of Plant Diseases Amendment Act 2010	15 16
8 Proclamations to regulate or prohibit introduction of things likely to introduce disease	17 18
(1) A proclamation in force under section 4 immediately before the amendment of that section by the <i>Plant Diseases Amendment Act 2010</i> is taken to be an order made by the Minister under that section.	19 20 21 22

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- (2) For the purposes of section 4 (2), a proclamation that is taken to be an order made by the Minister by subclause (1) is taken to have been made on the date on which the proclamation was originally published in the Gazette. 1
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