

Passed by both Houses



New South Wales

Plant Diseases Amendment Bill 2010

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2010*



New South Wales

Plant Diseases Amendment Bill 2010

Act No , 2010

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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Plant Diseases Amendment Act 2010*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Plant Diseases Act 1924 No 38

- [1] Section 4 Power to regulate or prohibit the introduction of things likely to introduce disease**
Omit “Governor may by proclamation published in the Gazette” from section 4 (1).
Insert instead “Minister may by order published in accordance with subsection (3)”.
- [2] Section 4 (1) (a)**
Omit “Governor’s”. Insert instead “Minister’s”.
- [3] Section 4 (2)**
Omit “a proclamation”. Insert instead “an order”.
- [4] Section 4 (3) and (4)**
Insert after section 4 (2):
- (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:
 - (a) in a newspaper circulating, or by radio or television broadcast, in the area to which the order applies, or
 - (b) on the Department’s internet website.
 - (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.
- [5] Sections 13 (1), (1A) (a) and (1B) (a) (ii) and 26 (1) (c) and (d)**
Omit “proclamation,” wherever occurring.
- [6] Section 16 Recovery of expenses**
Omit section 16 (c).
- [7] Section 16**
Omit “, order or proclamation”. Insert instead “or order”.

[8] Section 16A

Insert after section 16:

16A Permits

- (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:
 - (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
 - (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
 - (c) any other thing which, in the inspector's opinion, is capable of causing the introduction or spread of any disease or pest, or
 - (d) any plant, fruit, covering, goods or other thing into, or out of, a quarantine area.
- (2) A permit has effect for the period of time, and subject to any conditions, specified in the permit.
- (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.
- (4) An inspector may, at any time, revoke or vary a permit, or a condition of a permit.
- (5) A permit is issued or a permit or condition is revoked or varied:
 - (a) in the case of a permit issued to a particular person—by means of an instrument in writing given to the person, or
 - (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.
- (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.

[9] Section 26 Offences

Omit “a proclamation, notification or undertaking” from section 26 (1) (a) (ii).
Insert instead “any order, notification or undertaking”.

[10] Section 26 (1) (f)

Omit “proclamation”. Insert instead “order”.

[11] Section 28 Regulations

Insert after section 28 (1) (aii):

- (b) applications for permits under section 16A, and fees in relation to any such permits,

[12] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[13] Schedule 3, Part 5

Insert after Part 4:

**Part 5 Provision consequent on enactment of
Plant Diseases Amendment Act 2010**

8 Proclamations to regulate or prohibit introduction of things likely to introduce disease

- (1) A proclamation in force under section 4 immediately before the amendment of that section by the *Plant Diseases Amendment Act 2010* is taken to be an order made by the Minister under that section.

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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.