

Horticultural Stock and Nurseries Act 1969 No 3

[1969-3]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by sec 4 of the [Horticultural Legislation Amendment Act 2000 No 96](#) with effect from 31.12.2000.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Horticultural Stock and Nurseries Act 1969 No 3



New South Wales

An Act to provide for the registration of certain nurserymen and resellers of horticultural stock; to regulate the sale or propagation of certain horticultural stock; to amend the [Plant Diseases Act 1924](#); and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act and commencement

- (1) This Act may be cited as the [Horticultural Stock and Nurseries Act 1969](#).
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 (Repealed)

3 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

Chief of the Division of Plant Industries means the person for the time being holding office or acting as the Chief, Division of Plant Industries.

Deputy Director-General means a person for the time being holding office or acting as a Deputy Director-General of the Department of Agriculture.

Director-General means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.

disease has the meaning ascribed thereto in the [Plant Diseases Act 1924](#).

horticultural propagating material, in relation to any horticultural stock, means material from which that stock is or may be propagated.

horticultural stock means any tree, vine, plant, shrub or other vegetation.

inspector means an inspector referred to in section 16.

nursery means any place at which any horticultural stock is propagated for the purpose

of sale.

nurseryman means any person who is the owner of, or in charge of, or in control of, or manages, any nursery.

package includes any covering, pot, case, tin, box, bag, wrapper or packing.

person includes any partnership or firm and any body of persons, corporate or unincorporate.

pest has the meaning ascribed thereto in the [Plant Diseases Act 1924](#).

proclaimed horticultural stock means any class of horticultural stock that is for the time being declared to be proclaimed horticultural stock pursuant to section 5.

propagate, in relation to any horticultural stock, means generate or multiply, by sexual or asexual means.

registered means registered under this Act.

registration means registration under this Act.

regulations means regulations made under this Act.

reseller means any person who sells, or carries on the business of selling, horticultural stock, but does not include a nurseryman in so far as he or she sells, or carries on the business of selling, horticultural stock at the nursery of which he or she is the owner or in charge or in control or which he or she manages.

sale:

- (a) includes barter or exchange and also includes agreeing to sell or offering or exposing for sale or having in possession for sale or sending, forwarding or delivering for or on sale or causing, suffering or attempting any of those acts or things, and
- (b) in relation to any proclaimed horticultural stock, includes dealing, for fee, gain or reward, in that stock.

4 (Repealed)

5 Declaration of proclaimed horticultural stock

- (1) The Governor may by proclamation declare such class of horticultural stock as may be specified therein to be proclaimed horticultural stock.
- (2) A proclamation referred to in subsection (1):
 - (a) shall be published in the Gazette,
 - (b) shall take effect upon the expiration of three months after the date of publication

or from a later date specified in the proclamation, and

(c) may be revoked or varied by the Governor by a like proclamation.

Editorial note—

See proclamation in Gazette No 56 of 17.5.1974, p 1826.

6 Exemption

- (1) The Minister may, by instrument in writing under the Minister's hand, exempt, to the extent specified therein and subject to any conditions imposed thereby, any persons, matters or things or any class of persons, matters or things from any or all of the provisions of this Act and the regulations.
- (2) The Minister may, by a like instrument, revoke or vary any exemption under this section.
- (3) The power of exemption conferred by this section shall be in addition to and not in derogation of the power to make regulations in pursuance of section 23 (1) (d).

Part 2 Registration

7 Certain nurserymen and resellers to be registered

As from the date from which a proclamation under section 5 declaring any horticultural stock to be proclaimed horticultural stock takes effect, a person shall not at any place:

- (a) propagate any of that stock for the purpose of sale, unless the person is registered as a nurseryman in respect of that place, or
- (b) sell or carry on the business of selling any of that stock, unless the person is registered as a nurseryman, or a reseller, in respect of that place.

8 Registration

- (1) An application for registration as a nurseryman or reseller in respect of any place may be made to the Director-General by the person who carries on or proposes to carry on business as a nurseryman or reseller, as the case may be, at that place.
- (2) An application for registration or for renewal of registration shall:
 - (a) be in or to the effect of the prescribed form, and
 - (b) be accompanied by the prescribed fee.
- (3) Different fees may be prescribed for the purposes of subsection (2) according to the class of application being made.
- (4) Subject to subsection (5), the Director-General may:

- (a) grant, either unconditionally or subject to such conditions as he or she may impose, an application for registration or for renewal of registration, or
 - (b) refuse to grant it on any of the grounds set out in subsection (8).
- (5) Where a person applies for registration or for renewal of registration:
- (a) as a nurseryman in respect of a place, the Director-General may, if he or she thinks it appropriate in the circumstances, treat the application as if the person had applied for registration as a reseller in respect of that place, or
 - (b) as a reseller in respect of a place, the Director-General may, if he or she thinks it appropriate in the circumstances, treat the application as if the person had applied for registration as a nurseryman in respect of that place,
- and the Director-General may grant the application accordingly.
- (6) (Repealed)
- (7) The Director-General may suspend or cancel any registration on any of the grounds set out in subsection (8).
- (8) The grounds referred to in subsections (4) and (7) are as follows:
- (a) that the applicant or registered person has been convicted of an offence against this Act or the regulations,
 - (b) that the servant or agent of the applicant or registered person has (while in his or her service or employment) been convicted of an offence against this Act or the regulations,
 - (c) that there are reasonable grounds for suspecting the presence of a disease or pest at any place in respect of which the applicant or registered person is applying for registration or for renewal of registration or is registered, as the case may require.
- (9) A person who in any application for registration or for renewal of registration knowingly makes any claim or statement which is false in any material particular shall be guilty of an offence against this Act.
- (10) A person:
- (a) whose application for registration or for renewal of registration is, under subsection (4), granted subject to a condition, and
 - (b) who fails to comply with that condition,
- shall be guilty of an offence against this Act.

9 Certificate of registration

- (1) Where the Director-General grants an application for registration or for renewal of registration, the Director-General shall issue a certificate of registration to the applicant.
- (2) A certificate of registration shall be in or to the effect of the prescribed form.
- (2A) A certificate of registration, not being a certificate granted pursuant to an application for renewal of registration shall, subject to this Act, be in force for the period commencing on the day of its issue and ending:
 - (a) in respect of a certificate of registration as a nurseryman—on 16 August next following the day of its issue, and
 - (b) in respect of a certificate of registration as a reseller—on 16 November next following the day of its issue.
- (2B) A certificate of registration granted pursuant to an application for renewal of registration shall, subject to this Act, be in force for the period:
 - (a) in respect of a certificate of registration as a nurseryman:
 - (i) commencing on 17 August in the year in respect of which it is issued or on the day of its issue, whichever day is the later, and
 - (ii) ending on 16 August next following the day of its issue, and
 - (b) in respect of a certificate of registration as a reseller:
 - (i) commencing on 17 November in the year in respect of which it is issued or on the day of its issue, whichever day is the later, and
 - (ii) ending on 16 November next following the day of its issue.
- (2C) Except as provided by subsection (2D), where:
 - (a) an application for renewal of registration has been duly made,
 - (b) a certificate of registration is not issued to the applicant before the day on which the certificate of registration held by the applicant at the time of making the application would, but for this subsection, expire, and
 - (c) the application is not withdrawn by the applicant before the day referred to in paragraph (b),the certificate of registration held by the applicant at the time of making the application shall continue in force until:
 - (d) the certificate of registration in respect of which the application is made is issued,

or

(e) the application is withdrawn.

(2D) If:

- (a) an application for renewal of registration has been duly made,
- (b) the Director-General has, in relation to the application, made any of the decisions referred to in section 10 (1) (a), (b), (c) or (d),
- (c) the applicant has applied to the Administrative Decisions Tribunal for a review of such a decision under section 10, and
- (d) the application to the Tribunal has not been determined by the Tribunal before the day on which the certificate of registration held by the applicant at the time of making his or her application for renewal of registration would, but for this subsection, expire,

the certificate of registration held by the applicant at the time of making his or her application for renewal of registration continues in force until the day on which the Tribunal determines its review of the Director-General's decision.

- (3) During any period for which a person is registered, the person shall affix and keep affixed his or her certificate of registration in some conspicuous place in or upon the place to which the certificate relates.
- (4) A person registered as a nurseryman or a reseller in respect of any place shall, in the prescribed manner and within the prescribed time, return his or her certificate of registration in respect of that place to the Director-General if:
 - (a) the Director-General, under section 8 (7), suspends or cancels his or her registration in respect of that place, and
 - (b) it is unexpired.
- (5) (Repealed)
- (6) A person registered under this Act shall not:
 - (a) cause or permit his or her certificate of registration to be used by any other person, or
 - (b) permit any other person to hold himself or herself out as the holder of that certificate.

10 Reviews by Administrative Decisions Tribunal

- (1) A person may apply to the Administrative Decisions Tribunal for a review of any of the

following decisions:

- (a) a decision of the Director-General imposing, under section 8 (4), any condition on the grant of an application for registration or for renewal of registration made by the person,
 - (b) a decision of the Director-General refusing, under section 8 (4), to grant an application for registration or for renewal of registration made by the person,
 - (c) a decision of the Director-General granting, in accordance with section 8 (5), an application for registration or renewal of registration made by the person,
 - (d) a decision of the Director-General suspending or cancelling, under section 8 (7), the registration of the person.
- (2) A decision of the Tribunal made in proceedings determining an application made under subsection (1) is not an appealable decision for the purposes of Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*.

Part 3 Horticultural propagating material

11 Approval of sources

- (1) The Chief of the Division of Plant Industries may, by notification published in the Gazette, approve sources of supply of horticultural propagating material for use in the propagation of proclaimed horticultural stock.
- (2) An approval under this section shall operate in respect of:
 - (a) such class of horticultural propagating material, and
 - (b) such class of proclaimed horticultural stock,as may be specified in the approval.
- (3) The Chief of the Division of Plant Industries may, by a like notification, revoke or vary any approval under this section.

12 Minister may prohibit certain propagation and sale

- (1) If the Minister is of the opinion that any horticultural propagating material, that is of a class of horticultural propagating material, is likely to transmit a disease if used for the propagation of any proclaimed horticultural stock, the Minister may, by notification published in the Gazette, prohibit either or both of the following:
 - (a) the propagation (whether or not that propagation has been commenced at the time the notification is published) by any registered nurseryman of any of that stock, or such class of that stock as may be specified in the notification, from horticultural propagating material of that class of horticultural propagating

material unless it has been obtained from a source approved for the time being under section 11,

- (b) the sale by any person of any of that stock, or such class of that stock as may be specified in the notification, unless it has been propagated from horticultural propagating material that has been obtained from a source so approved.
- (2) A registered nurseryman shall not propagate any proclaimed horticultural stock in contravention of any notification under this section.
- (3) A person shall not sell any proclaimed horticultural stock in contravention of any notification under this section.
- (4) A notification may be made under this section in relation to any horticultural propagating material before or after or at the same time as any approval is notified under section 11.
- (5) A notification under this section shall take effect from the date of its publication.
- (6) The Minister may, by a like notification, revoke any such notification.

13 Destruction of certain stock

- (1) If an inspector reports to the Minister that any proclaimed horticultural stock has been propagated, or is offered for sale, in contravention of any notification under section 12, the Minister may, by writing under the Minister's hand, order that stock to be destroyed.
- (2) The order referred to in subsection (1) may be addressed to the owner of the proclaimed horticultural stock or the person in whose possession the stock was found.
- (3) Any person aggrieved by an order referred to in subsection (1) may apply to the Administrative Decisions Tribunal for a review of the order.
- (4) The Director-General may cause any or all of the proclaimed horticultural stock to which an order relates to be destroyed, and any cost thereby incurred may be recovered in any court of competent jurisdiction from the person to whom the order was addressed, but only if:
 - (a) an application to the Tribunal has not been lodged within the time prescribed by or under the *Administrative Decisions Tribunal Act 1997*, or
 - (b) an application has been so lodged and the Tribunal has confirmed or varied the order.
- (5) A decision of the Tribunal made in proceedings determining an application made under subsection (3) is not an appealable decision for the purposes of Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*.

Part 3A Certification schemes

13A Definitions

In this Part:

approved certification scheme means a certification scheme approved by the Minister pursuant to section 13B.

certification scheme means a scheme to control and regulate the growing of a class of proclaimed horticultural stock specified in the scheme.

13B Approval of certification scheme

- (1) The Minister may, by notification published in the Gazette, approve a certification scheme set out or referred to in the notification.
- (2) A certification scheme referred to in subsection (1) may include provisions relating to any one or more of the following matters:
 - (a) the conditions of eligibility of registered nurserymen for participation in the scheme,
 - (b) the standards for nurseries involved in the scheme,
 - (c) the rules of management of the scheme,
 - (d) the functions of inspectors,
 - (e) the determination and payment of fees relating to the conduct and administration of the scheme.
- (3) The powers of the Minister under subsection (1) extend so as to enable the Minister to approve a certification scheme which operates outside New South Wales but only if the certification scheme operates wholly in another State or a Territory of the Commonwealth.
- (4) The Minister may, by notification published in the Gazette:
 - (a) vary or revoke a notification referred to in subsection (1), or
 - (b) vary the provisions of a certification scheme set out or referred to in a notification referred to in subsection (1).

13C Application to participate in an approved certification scheme

- (1) A registered nurseryman may make an application to the Chief of the Division of Plant Industries for approval to participate in an approved certification scheme.
- (2) An application under subsection (1) shall:

- (a) be in or to the effect of the prescribed form, and
- (b) be accompanied by the prescribed fee.

13D Determination of application

- (1) The Chief of the Division of Plant Industries shall consider each application made under section 13C and, after taking into consideration such matters as he or she considers relevant, may:
 - (a) accept the applicant as a participant in the approved certification scheme to which the application relates, or
 - (b) refuse to accept the applicant as such a participant.
- (2) The Chief of the Division of Plant Industries shall notify an applicant of his or her decision under subsection (1) as soon as practicable after the decision is made.

13E Sources of propagating material

A registered nurseryman accepted under section 13D as a participant in an approved certification scheme shall not grow proclaimed horticultural stock of the class specified in the scheme except from horticultural propagating material of the same class approved under section 11.

13F Exclusion of participants

Where the Chief of the Division of Plant Industries is of the opinion that a registered nurseryman accepted under section 13D as a participant in an approved certification scheme has not complied with a provision of this Act or the scheme, he or she may, by notice in writing to the nurseryman given at any time, exclude the nurseryman, from the date of the notice, from participation in the scheme.

13G Application for labels

- (1) A participant in an approved certification scheme who has not been excluded from participation in the scheme under section 13F may make an application to the Chief of the Division of Plant Industries for the issue to the participant of labels for attachment to, or to a package in which is contained, stock grown by the participant in accordance with the scheme.
- (2) An application under subsection (1) shall:
 - (a) be in or to the effect of the prescribed form, and
 - (b) be accompanied by the prescribed fee.

13H Issue of labels

- (1) On receipt of an application under section 13G, the Chief of the Division of Plant

Industries shall, unless he or she thereupon excludes the applicant from participation in the approved certification scheme under section 13F, forward to the applicant the labels the subject of the application.

- (2) Labels referred to in subsection (1) shall be of the prescribed size and have set out thereon the prescribed particulars in the prescribed manner.
- (3) The regulations may provide, either generally or in such cases or classes of cases as may be prescribed, that:
 - (a) all or any of the particulars on a label referred to in subsection (1) shall relate to all of the stock:
 - (i) to which the label is attached, or
 - (ii) which is contained in the package to which the label is attached, and
 - (b) a label shall be attached in a particular way.

13I Unlawful attachment of labels

A person who attaches a label forwarded pursuant to section 13H in respect of an application under section 13G to:

- (a) any proclaimed horticultural stock, other than proclaimed horticultural stock the subject of the application, or
- (b) a package in which is contained any proclaimed horticultural stock, other than proclaimed horticultural stock the subject of the application,

shall be guilty of an offence against this Act.

13J Restricted representations and descriptions

(1) A person:

- (a) who, whether for the purpose of sale or otherwise, represents or describes horticultural stock of a class of proclaimed horticultural stock specified in an approved certification scheme as having been grown in accordance with the scheme, or
- (b) who sells horticultural stock of a class of proclaimed horticultural stock specified in an approved certification scheme which is represented or described as having been grown in accordance with the scheme,

shall, unless the horticultural stock so represented or described is:

- (c) where the horticultural stock is grown in accordance with an approved certification scheme other than an approved certification scheme referred to in paragraph (d)—horticultural stock in respect of which labels have been forwarded under

section 13H and to which, or to a package in which the horticultural stock is contained, is attached a label forwarded under that section, or

- (d) where the horticultural stock is grown in accordance with an approved certification scheme which operates wholly in another State or a Territory of the Commonwealth—horticultural stock which is labelled, or is contained in a package which is labelled, in accordance with the provisions of that certification scheme or any law relating to the operation of that certification scheme,

be guilty of an offence against this Act.

- (2) For the purposes of subsection (1), horticultural stock referred to in that subsection shall be deemed to be represented or described as having been grown in accordance with an approved certification scheme if it is represented or described:
- (a) as being “approved” or “certified” or by means of any word or words of like import, or
- (b) by means of any prescribed word or words or any prescribed matter.
- (3) In proceedings in respect of an offence against this Act arising under subsection (1), it is a defence for the person charged to prove:
- (a) that the commission of the offence was due to a cause or to causes beyond his or her control,
- (b) that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence in respect of the horticultural stock to which the proceedings relate, and
- (c) that the person obtained that horticultural stock from another person in the same state as it was when the representation or description relating to that horticultural stock and the subject of the proceedings was made.

13K Part 4 not affected

Nothing in this Part affects the operation of Part 4.

Part 4 Labelling

14 Labelling

- (1) During any period for which a proclamation under section 5 declaring any horticultural stock to be proclaimed horticultural stock is in force, a person shall not sell any of that stock unless a label is securely attached to the stock or to the package containing the stock and that label complies with the regulations.
- (2) A label referred to in subsection (1) shall be of the prescribed size and have set out

thereon the prescribed particulars in the prescribed manner.

- (3) The regulations may provide, either generally or in such cases or classes of cases as may be prescribed, that:
 - (a) all or any of the particulars on a label required by this section shall relate to all of the stock:
 - (i) to which the label is attached, or
 - (ii) which is contained in the package to which the label is attached, and
 - (b) a label shall be attached in a particular way.
- (4) Without affecting the generality of subsection (2), the regulations may provide that the particulars to be set out on a label referred to in that subsection shall include a statement:
 - (a) declaring whether or not the stock to which the label relates was propagated from a source of supply approved for the time being under section 11, and
 - (b) if that stock was propagated from such a source—specifying that source.
- (5) A person who on any label referred to in this section knowingly makes any statement (required by or under this section) which is false or misleading in any material particular shall be guilty of an offence against this Act.

15 Other Acts not affected

- (1) The requirements imposed by section 14 (and any regulations made in pursuance of that section) shall be in addition to and not in derogation of the requirements imposed by or under any other Act.
- (2) Where there is an inconsistency between the requirements first mentioned in subsection (1) and those last mentioned therein, the last mentioned requirements shall prevail.

Part 5 Inspection and records

16 Inspectors

An inspector appointed for the purposes of the *Plant Diseases Act 1924* shall, while such an inspector, be an inspector for the purposes of this Act.

17 Power to enter, inspect and search

- (1) An inspector, upon production of the written evidence of appointment referred to in section 13 (1B) of the *Plant Diseases Act 1924*, may, for the purpose of ascertaining whether any of the provisions of this Act or the regulations are being or have been

contravened:

- (a) enter and inspect any land, premises, place, vehicle or vessel in or upon which the inspector has reasonable grounds for believing there is:
 - (i) any proclaimed horticultural stock that is for sale or intended for sale or being prepared for sale,
 - (ii) any proclaimed horticultural stock that is being propagated for the purpose of sale, or
 - (iii) any horticultural propagating material that may be used for the propagation of any proclaimed horticultural stock for the purpose of sale,
 - (b) open any part of any such vehicle or vessel,
 - (c) require the driver or person in charge of any such vehicle or vessel to open any part thereof,
 - (d) inspect such horticultural stock and horticultural propagating material and open such packages as may be reasonably necessary,
 - (e) where any proclaimed horticultural stock, or horticultural propagating material that may be used in the propagation of any such stock, is in the course of being conveyed from one place to another place, require the person in whose possession or under whose control it is for the time being to give particulars as to:
 - (i) from whom and from what place it is being conveyed, and
 - (ii) to whom and to what place it is being conveyed,
 - (f) require any person who has in his or her possession or control any proclaimed horticultural stock, or horticultural propagating material that may be used in the propagation of any such stock, to retain it in his or her possession or control for the prescribed period, and
 - (g) do such other things as the inspector may deem necessary or expedient.
- (2) Nothing in this section shall authorise an inspector to enter in or upon or to search or inspect that portion of any premises that is used for residential purposes except under a written authority given by the Minister.
- (3) Any authority under subsection (2) shall be restricted to a particular case.
- (4) A person who:
- (a) wilfully obstructs, hinders, impedes or avoids entry, search or inspection or fails to afford reasonable assistance to an inspector to enter, search or inspect,

- (b) refuses or wilfully neglects to submit any vehicle or vessel or any horticultural stock or horticultural propagating material referred to in subsection (1) in or upon the vehicle or vessel or in the person's possession to search or inspection, or being the driver or person in charge of the vehicle or vessel, to open any part thereof in accordance with the directions of an inspector,
 - (c) being required to give particulars under subsection (1) (e), knowingly:
 - (i) gives any particulars which are not correct, or
 - (ii) omits to give any particulars, or
 - (d) fails to comply with any requirement under subsection (1) (f),
- shall be guilty of an offence against this Act.

18 Demanding name and place of abode

- (1) An inspector who finds a person committing an offence against this Act or the regulations or who finds a person whom, on reasonable grounds, the inspector suspects of having committed or attempted to commit any such offence may demand from the person his or her name and place of abode.
- (2) Any person who upon demand made under subsection (1):
 - (a) fails or refuses to state his or her name or place of abode, or
 - (b) gives a false name or place of abode,shall be guilty of an offence against this Act.

19 Records

- (1) Every registered nurseryman and every registered reseller shall keep such records as may be prescribed, and shall retain them for such period as may be prescribed.
- (2) Any inspector, or any person authorised by the Director-General in writing under the Director-General's hand either generally or in respect of any particular matter, may at all reasonable times:
 - (a) enter any premises in which he or she has reasonable cause to believe records referred to in subsection (1) are kept,
 - (b) demand the production of any such records, and
 - (c) inspect any such records and take copies thereof or of any entries therein.
- (3) Any person who obstructs, hinders, prevents, interferes with, threatens or assaults an inspector, or any person so authorised, or who, when requested to do so, refuses or neglects to produce any such records shall be guilty of an offence against this Act.

Part 6 Horticultural stock and nurseries account

20 The Account

- (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the "Horticultural Stock and Nurseries Account" (in this section referred to as **the Account**).
- (2) There shall be paid to the credit of the Account the fees payable under and all penalties recovered for offences against this Act or the regulations, other than Part 3A, an approved certification scheme within the meaning of section 13A or the regulations made for the purposes of that Part.
- (3) The Account shall be applied to the payment of:
 - (a) grounds approved by the Minister to any persons, associations or institutions to be used in any manner which, in the Minister's opinion, will assist in the development or protection of the horticultural stock industry, or
 - (b) compensation, in whole or in part, in such circumstances as may be prescribed.
- (4) To meet the cost of administration of this Act there shall be paid out of the Account to the credit of the Consolidated Revenue Fund:
 - (a) in the year commencing on the first day of July next following the commencement of this Act—an amount equal to the prescribed proportion of the total sum paid to the credit of the Account during the period between the commencement of this Act and that first day of July, and
 - (b) in each succeeding period of twelve months commencing on the first day of July—an amount equal to the prescribed proportion of the total sum paid to the credit of the Account during the preceding period of twelve months.
- (5) The expenditure of any money paid in accordance with subsection (3) (a) shall be accounted for in such manner as may be prescribed.

Part 7 Miscellaneous

21 Offences

- (1) A person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act.
- (2) A person who is guilty of an offence against this Act shall be liable to a penalty not exceeding 10 penalty units.
- (3) All proceedings for offences against this Act or the regulations are to be disposed of in a summary manner before a Local Court constituted by a Magistrate sitting alone.

- (4) No prosecution for an offence against this Act or the regulations shall be commenced without the written consent of the Minister.

22 Evidence

In any proceedings against any person for an offence against this Act or the regulations:

- (a) a certificate purporting to be signed by the Director-General or a Deputy Director-General certifying that a person has been appointed or authorised to act as an inspector under the *Plant Diseases Act 1924* and during any period specified in the certificate held office or was authorised to act as such an inspector shall be prima facie evidence of the facts stated therein,
- (b) the averment of the prosecutor that the defendant was not at the time of the commission of the alleged offence a registered person or a person registered in respect of any particular place shall be deemed to be proved in the absence of proof to the contrary, and
- (c) any printed paper purporting to be a proclamation or notification published under this Act and to be printed by the Government Printer shall be evidence that a proclamation or notification, in the words printed in that paper, were duly published under this Act.

23 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:
- (a) the manner in which applications for registration or for renewal of registration shall be made under this Act,
- (b) forms to be used for the purposes of this Act,
- (c) fees to be paid under this Act and the circumstances in which they may be wholly or partly refunded,
- (d) the exemption of any person, matter or thing or any class of persons, matters or things from any or all of the provisions of this Act and the regulations, and
- (e) all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may prescribe penalties not exceeding 5 penalty units for any breach thereof.
- (3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject-matter.

(4), (5) (Repealed)

24 (Repealed)