

Act No. 37, 1906.

VINE AND
VEGETATION
DISEASES
(FRUIT PESTS).

An Act to amend the Vine and Vegetation Diseases Act, 1901. [18th December, 1906.]

BE 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 :—

Preliminary.

Short title.

1. This Act may be cited as the "Vine and Vegetation Diseases (Fruit Pests) Act, 1906," and shall be construed with Parts III and IV of the Vine and Vegetation Diseases Act, 1901, hereinafter referred to as the Principal Act.

Interpretation.

2. In this Act, unless inconsistent with the subject-matter or context—

"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.

"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.

"Inspector" means an inspector appointed under this Act, and includes an inspector of vineyards appointed under the Principal Act.

"Minister" means the Secretary for Mines and Agriculture.

"Nursery"

Vine and Vegetation Diseases (Fruit Pests).

“Nursery” means any place where plants or fruit trees are grown for sale.

“Owner” or “occupier” includes the agent of the owner or occupier, and also any joint owner or joint occupier.

“Owner” includes any person holding land under any lease or license from the Crown, or deriving title from, under, or through him.

3. (1) The Minister may appoint such persons as he thinks fit Inspectors. to be inspectors under this Act.

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

Treatment of fruit pests.

4. (1) An inspector may enter any land or building, with or Power to enter upon land, &c. 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.

(2) If the inspector finds, on search being made as Notice to owner or occupier to treat diseases. 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 Act, take the said measures and do the said acts at the expense of the said owner or occupier.

(3) If the said owner or occupier is of opinion that the Appeal to magistrate from notice. 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.

(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 Treatment of fruit pest, &c., if notice or order not complied with. to cancel or vary the notice; or
- (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,

Vine and Vegetation Diseases (Fruit Pests).

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.

5. 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.

6. (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.

7. (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) 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.

Proceedings against
occupier in first
instance.

8. No proceedings shall be taken under this Act, or under Parts III or IV of the Principal Act, against any owner of any land or building in the occupation of any person to recover any expenses or
any

Appropriation.

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.

9. No person shall be entitled to receive any compensation whatsoever in consequence of any measures taken under 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
Act unless wilful.

10. The Governor may, subject to the provisions of Part III of the Principal 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.