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PROOF

No. , 1929.

A BILL

To amend the Plant Diseases Act, 1924, in certain respects; and for purposes connected therewith.

[MR. THORBY;— , 1929.]

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
5 the same, as follows:—

1. (1) This Act may be cited as the "Plant Diseases Short title. (Amendment) Act, 1929," and shall be read with the Plant Diseases Act, 1924.

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72—A (4)

(2)

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Plant Diseases (Amendment).

(2) The Plant Diseases Act, 1924, as amended by this Act, may be cited as the "Plant Diseases Act, 1924-1929."

(3) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation 5 published in the Gazette.

Amendment of Act No. 38, 1924. Sec. 3. (Definitions.)

2. The Plant Diseases Act, 1924, is amended—

(a) by inserting in section three after the definition of "Disease" the following definition:—

"Foreign substance" includes any earthy 10 matter, stones, sand, gravel, and any substance which the Governor may, by proclamation published in the Gazette, declare to be a foreign substance. 15

New s. 5A.

(b) (i) by inserting after section five the following new section:—

Protected area.

5A. (1) The Minister may, by notification published in the Gazette, declare any land therein described to be a protected area as 20 regards any specified disease, and may, by the same or a further notification published in the Gazette, prohibit either absolutely or except subject to specified conditions the bringing into the area of any plant, 25 fruit, covering, package or thing which in his opinion is likely to introduce the disease into the area.

(2) The Minister may at any time, by notification published in the Gazette, 30 amend or revoke any notification made and published under subsection one of this section.

Sec. 26 (1) (c) (d). (Consequential.)

(ii) by inserting in paragraph (c) and paragraph (d) of subsection one of section twenty-six 35 after the word "proclamation" wherever occurring the word "notification";

(c)

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- (c) (i) by inserting in subsection one of section nine after the word "contrary" where firstly occurring the words "to the provisions of this Act or"; Sec. 9 (1). (Seizure of plants.)
- 5 (ii) by inserting in the same subsection after the word "proclamation" the words "notice or notification";
- (iii) by inserting in the same subsection after the words "given by an inspector" the words "or by the Minister."
- 10 (d) by omitting from subsection one of section ten the words "an inspector or to"; Sec. 10 (1). (Notice of disease.)
- (e) (i) by inserting in subsection two of section thirteen after the word "acts" the words "as are specified in the notice or"; Sec. 13 (2). (Power to order infected things to be dealt with.)
- 15 (ii) by adding at the end of the same section the following new subsection:— New subsec. (3).
- (3) If an inspector is of the opinion that in respect of any fruit, plant, covering or package a person has failed to comply with any of the provisions of this Act or the regulations or with any direction, requirement or prohibition contained in a proclamation, notice or notification, he may give notice, in writing, to the owner or person in charge thereof to take all such measures and do all such acts as the inspector deems necessary for the proper observance of the provisions of this Act and the regulations and of any proclamation, notice or notification made or given under this Act. Direction to comply with Act and regulations.
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- (f) by omitting subsection one of section nineteen and inserting in lieu thereof the following new subsections:— Sec. 19 (1). (Registration of orchards.)
- 35 (1) (a) Every orchard and nursery, unless exempted by the Minister, shall be registered annually by the occupier thereof. Registration of orchards and nurseries.
- (b) The registration shall expire on the thirty-first day of December in each year.
- (c)

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(c) The application for registration shall be made in the prescribed manner, and shall be accompanied by the prescribed fee.

(d) The fee for registration shall not exceed a sum calculated at the rate of two 5 shillings per acre of the land comprised in the orchard or nursery.

The minimum fee for registration shall be five shillings.

(e) where registration of an orchard or nursery is 10 effected within a period prescribed by the regulations, only one half the fee prescribed by paragraph (d) of this subsection shall be payable in respect of such registration.

(1A) The occupier of an orchard or nursery 15 which is required to be registered in pursuance of this section, and which is not so registered shall be liable to a penalty not exceeding *ten* pounds.

(1B) (a) Where in the opinion of the Under- 20 Secretary of the Department of Agriculture a person has failed to comply with the provisions of subsection one of this section, the Under-Secretary may send by post to that person a notice in the prescribed form— 25

- (i) informing him that in the opinion of the Under-Secretary he has failed to comply with the provisions of that subsection ;
- (ii) requiring him to state the true reason 30 for such failure ;
- (iii) informing him that he may, if he so desires, have the matter dealt with by the Minister ; and
- (iv) informing him that if he consents to 35 the matter being dealt with by the Minister, the Minister may, if he considers the reason stated by such person for his failure is unsatisfactory, make an order for the payment of such sum 40 not exceeding five pounds, as the Minister thinks fit. (b)

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(b) Every person to whom such a notice has been sent shall—

- 5 (i) fill up the form at the foot of the notice by stating the true reason for his failure to comply with the provisions of subsection one of this section, and whether he consents to the matter being dealt with by the Minister;
- (ii) sign the form; and
- 10 (iii) post or deliver the form so as to reach the Under-Secretary not later than the date inserted in the notice.

(c) Any person who—

- 15 (i) fails or neglects or refuses to fill up and sign and post or deliver to the Under-Secretary of the Department of Agriculture so as to reach him within the time allowed pursuant to this Act the form at the foot of the notice; or
- 20 (ii) states in the form a false reason for his failure to comply with the provisions of subsection one of this section shall be liable to a penalty not exceeding *five* pounds.

(d) When any such person has notified the Under-Secretary that he consents to the matter being dealt with by the Minister, the Minister may, if he is of opinion that the reason stated by the person for his failure to comply with the provisions of subsection one of this section is unsatisfactory, make an order requiring the person to pay a sum not exceeding five pounds, and notify the person accordingly.

(e) If within twenty-eight days after the date of the order the said sum is paid, and such person has complied with the provisions of subsection one of this section, he shall not be liable to prosecution in respect of the failure referred to in the notice.

(f)

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(f) Any sum paid to the Minister in accordance with the provisions of this subsection shall be paid into the Consolidated Revenue Fund.

Sec. 24.
(Service of notices.)

(g) by inserting in section twenty-four after the word "abode" where firstly occurring the words "or business"; 5

Sec. 26 (1).
(Offences.)

(h) (i) by inserting next after paragraph (e) of subsection one of section twenty-six the following new paragraphs:— 10

(f) packs for sale any fruit or vegetables in any package or covering on which is marked the name or brand of any person other than the maker of the covering or package or the person by whom the fruit or vegetables were grown or packed; or 15

(g) marks on any package or covering containing fruit or vegetables the name or brand of any person other than the maker of the covering or package or the person by whom the fruit or vegetables were grown or packed. 20

Sec. 26 (4).
(Evidence.)

(ii) by inserting in subsection four of the same section after the word "proceeding" where firstly occurring the words "and in any proceeding for the recovery of expenses by an inspector"; 25

(i) by inserting after section twenty-eight the following new section:— 30

Regulations and proclamation.

28A. Any regulation or proclamation made or issued under this Act may authorize any matter to be from time to time determined, applied or regulated by an inspector either generally or for any class of cases or in any particular case. 35

Sec. 29.
(Short heading.)

(j) (i) by omitting the short heading to section twenty-nine, and by inserting in lieu thereof the following short heading:— 40

"Sale, Grading, and Packing of Fruit and Vegetables." (ii)

- (ii) by omitting from subsection one of section twenty-nine all words following the words "the whole of such fruit or vegetables";
- (iii) by inserting next after subsection two of the same section the following new subsection:—

(2A) The regulations may prescribe grades and methods of packing any specified fruit or vegetables.

No person shall, except under such conditions as may be prescribed, pack for sale or sell in a covering or package any fruit or vegetables in respect of which regulations under this section have been made, unless—

- (a) the fruit or vegetables are of one of the grades prescribed, and are packed in the prescribed manner; and
- (b) the covering or package is branded or labelled with such particulars and in such manner as may be prescribed.

- (k) by adding at the end of section twenty-nine the following new sections:—

29A. (1) Any person who, having offered or exposed for sale any fruit or vegetables or supplied or exhibited any sample of fruit or vegetables thereafter upon an offer to purchase fruit or vegetables of the same quality or price, supplies fruit or vegetables of a quality inferior to that offered or exposed for sale or to the sample shall be guilty of an offence against this Act.

(2) Any person who offers or exposes for sale any fruit or vegetables and upon an offer to purchase the fruit or vegetables in a quantity usually sold by him refuses to supply the purchaser from the lot of fruit or vegetables so offered or exposed shall be guilty of an offence against this Act.

29B. For the purposes of sections twenty-nine and 29A the word "fruit" shall include dried fruit other than dried currants, dried sultanas, and dried lexias produced in Australia.