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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1920.

A BILL

To make further provision to prevent the introduction into New South Wales of diseases and pests affecting plants and fruit ; to provide for the eradication of such diseases and pests, and to prevent the spread thereof ; to make certain provisions with regard to the sale and grading of fruit and vegetables ; to repeal the Vine and Vegetation Diseases and Fruit Pests Act, 1912 ; and for purposes consequent thereon or incidental thereto.

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.

1. This Act may be cited as the "Plant Diseases Act, 1920," and shall come into force on a day to be proclaimed by the Governor in the Gazette. Short title.

2. (1) The Vine and Vegetation Diseases and Fruit Pests Act, 1912, is hereby repealed. Repeal and saving.

(2) All persons appointed under the said Act, and holding office at the commencement of this Act, shall be deemed to have been appointed under this Act.

(3) All proclamations published, and all regulations made under the said Act, and in force at the commencement of this Act, in so far as they are not inconsistent with this Act, shall be deemed to have been published or made under this Act.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

"Covering" or "package" includes any case, box, bag, wrapper, packing, or material of whatsoever description intended or used for the packing of anything.

"Disease" means any disease of plants which the Governor may declare to be a disease, and includes any such disease at any stage of its existence.

"Fruit" means the product of any plant, and includes the peel, skin, or shell of any such product, and the seeds of any plant.

"Infected" means infected with disease or pest.

"Inspector" means inspector appointed under this Act.

"Minister" means the Minister of Agriculture.

"Nursery" means any land or premises whereon or wherein plants are grown for the purpose of sale or disposal in their living state.

"Occupier"

- “Occupier” includes any person having the charge, control, or management of any orchard or other land or premises.
- “Orchard” means any place where fruit-producing plants are grown.
- “Owner” includes the holder of any lease or license from the Crown and any person deriving title thereunder.
- “Pest” means any organism belonging either to the animal or vegetable kingdom, which the Governor may declare to be a pest.
- “Plant” means any tree, vine, flower, shrub, vegetable, or other vegetation of economic value, or which the Governor may declare to be a plant.
- “Prescribed” means prescribed by this Act or regulation made thereunder.
- “Sell” includes offering or attempting to sell, exposing for sale, and sending, forwarding, or delivering for sale.
- “Vegetables” means potatoes, onions, green peas, green beans, or any other vegetable which the Governor may declare to be a vegetable.

Governor's proclamation.

4. (1) The Governor may by proclamation prohibit the importation, introduction, or bringing into the State (or into any specified portion thereof) either generally or from any country or place, or the bringing into one portion of the State from any other portion of—

Power to prohibit the introduction of things likely to introduce disease.

- (a) any plant, fruit, or other thing of any nature or kind whatsoever which in his opinion is likely to introduce any disease or pest into the State or into any specified portion thereof, as the case may be; or
- (b) any covering or goods in, or with which, any such plant, fruit, or thing has been contained, or packed, or with which it has come in contact; or
- (c) anything which is infected.

(2)

(2) Such prohibition may be absolute or conditional.

(3) The Governor may at any time revoke or alter such proclamation.

5. (1) The Governor may by proclamation—

Power to appoint places of entry and quarantine.

- (a) appoint any specified ports or places to be the only ports or places of entry into the State for plants or fruit or for any specified kind of plants or fruit ;
- (b) appoint quarantine grounds where plants, or fruit, and coverings, or goods which have come in contact with plants or fruit may be inspected, disinfected, destroyed, or otherwise disposed of ;
- (c) declare any land or any building a quarantine ;
- (d) isolate any building, land, or place wherein or whereon there are or have recently been any infected plants or fruit ;
- (e) prohibit the use, storage, or carriage within the State or within any specified portion thereof of coverings in or with which any plant or fruit has been contained or packed or with which any plant or fruit has come in contact ;
- (f) prohibit the removal from any place of any plant or fruit except subject to the prescribed conditions.

(2) The Governor may, revoke or vary such proclamation.

6. Any plant, fruit, covering, goods or other thing which is dealt with or disposed of in any way contrary to any direction or prohibition contained in any proclamation may be seized by any person authorised in writing by the Minister either generally or specifically, and when so seized shall be destroyed or otherwise dealt with in such manner as and at the expense of either the owner or person in charge thereof as the Minister shall direct, and any such expense shall be recoverable by any inspector from such owner or person in any Court of competent jurisdiction.

Seizure of prohibited plants.

7. Every occupier of any orchard or nursery in which any disease or pest appears shall, within twenty-four hours after first discovering or becoming aware of its appearance

Notice to be given of appearance of disease.

appearance, give written notice thereof to an inspector or to the Under Secretary of the Department of Agriculture.

Inspectors and their powers and duties.

8. The Minister may appoint inspectors, who shall have the powers and perform the duties prescribed. Appointment of inspectors.

9. (1) An inspector may employ such assistants as he deems necessary in carrying out the provisions of this Act. Employment of assistants and use of force.

(2) For the purpose of making an entry or removal or otherwise performing his duties under this Act, any inspector or assistant may, in case of resistance, use all necessary force.

(3) Every person who obstructs, hinders, threatens, or assaults any inspector or assistant whilst in the performance of his duty shall be liable to a penalty not exceeding *twenty* pounds. Persons obstructing officers.

10. (1) Any inspector may enter any land or premises or any house or structure used for the storage or sale of fruit, or any conveyance, or may board any vessel, and search and inspect the same for the purpose of ascertaining whether the same or any part thereof or anything thereon or therein is infected, and may for the purpose aforesaid examine plants, fruit, vegetables, coverings, and goods and other things, and dig up plants, open packages, and do such other things as he may deem necessary or expedient. Power of entry and search.

(2) If any inspector shall declare any plant, fruit, vegetables, covering, goods, conveyance, or vessel or thing to be infected, he shall give notice thereof to the owner or person in charge thereof, and on receipt of such notice such owner or person shall forthwith take such measures and do such acts as the inspector shall declare to be necessary or are prescribed. Power to order infected things to be dealt with.

11. An inspector may serve on the owner or occupier of any orchard a notice requiring him to take such measures or do such acts as are set forth in such notice, or are prescribed, to prevent the spread of any disease or pest. Power to require owner or occupier of orchard to prevent spread of disease.

12.

12. (1) Whenever an inspector is satisfied that disease or pest exists on any orchard, nursery, land, or premises, he may serve on the owner or occupier a notice requiring him to do whatever such inspector may deem necessary in order to eradicate such disease or pest and to prevent the spread thereof.

Steps to be taken when orchard infected.

(2) Such notice may name a time at which the doing of anything thereby required shall be commenced and a time within which it shall be completed.

(3) Any person failing to comply with any such notice shall be liable to a penalty not exceeding *one hundred pounds*.

13. In case of any default in compliance with the terms of any notice given by an inspector under sections ten, eleven, or twelve, the inspector may do or cause to be done all such things as he may deem necessary in order to comply with the terms of the notice and the expenses thereby incurred shall be recoverable in any court of competent jurisdiction from the person guilty of the default.

Recovery of expenses.

14. Any inspector may destroy or otherwise dispose of any plants or fruit which are infected or which he, on reasonable grounds, believes to be infected, or any coverings with which such plants or fruit have been contained or packed or come in contact.

Power to destroy infected plants, coverings, &c.

15. An inspector may require any person having in his possession or under his control any fruit or plants for sale, to answer any questions relating to such fruit or plants.

Power to question vendors of fruit.

Any person refusing to answer any such question to the best of his knowledge, shall be liable to a penalty not exceeding *ten pounds*.

Registration.

16. Every orchard and nursery, unless exempted by the Minister, shall be registered by the person and in the manner prescribed.

Orchard and nursery to be registered.

Certificated

Certificated nurseries.

17. (1) The Minister may, whenever he thinks fit, and shall, on request made to him by the owner or occupier, cause an inspector to inspect any nursery, and if on inspection it is found that the plants in such nursery are free from disease or pest such inspector may give to the owner or occupier a certificate in the form prescribed. Such certificate shall have effect for the time mentioned therein.

Inspection and certification.

(2) The Minister may cancel any such certificate, and if a certificate is cancelled the person to whom the certificate was issued shall on demand forward it to the Minister.

(3) Any person who falsely pretends that he is the holder of any such certificate shall be liable to a penalty.

Abandoned orchards and nurseries.

18. (1) If any inspector reports to the Minister that any orchard or nursery has been abandoned, the Minister may give notice to the owner or occupier stating that unless, within the period specified therein, good cause is shown to him why he should not exercise the powers conferred by this section, all plants in such orchard or nursery which are deemed by an inspector to be likely to harbour or spread disease or pest will be destroyed.

Power to destroy plants in an abandoned orchard or nursery.

(2) Unless within the period specified good cause as aforesaid is shown to the satisfaction of the Minister the orchard or nursery shall be deemed to be abandoned, and the Minister may cause such plants as aforesaid to be destroyed.

(3) For the purposes of this section an orchard or nursery shall be deemed to be abandoned which is habitually or has been for a long period uncultivated or neglected.

Miscellaneous.

19. Any owner of any orchard, nursery, land, or premises which is in the occupation of another person shall have full right of entry on and into the same, and of remaining

Penalty if owner or occupier hinders the other.

remaining thereon and therein for the purpose of the performance of any duty or obligation imposed upon him under this Act.

Any person who hinders or obstructs the performance by any other person of any duty or obligation imposed on him under this Act shall be liable to a penalty.

20. Any notice to be given to any person under this Act shall be in writing, and may be served on such person personally, or left at or posted by registered letter to his usual or last known place of abode in this State, or if such person or his address is unknown and he has no place of business or place of abode in this State, then service may be effected by affixing the notice in a conspicuous place on the land to which the notice relates.

Notices to be given in writing.

21. No person shall be entitled to compensation by reason of anything done by any inspector or other person in the discharge of any duty or obligation imposed by this Act or any regulation thereunder, or in respect of any loss or injury that may directly or indirectly result therefrom.

Persons not entitled to compensation.

22. (1) Every person commits an offence against this Act who, directly or indirectly by himself, his servant or agent—

Offences.

- (a) knowingly and unlawfully sells or brings upon or removes from his premises any plant, fruit, goods, covering, or thing which is infected or which has been introduced into this State in contravention of the provisions of any proclamation or regulation under this Act; or
- (b) being the owner or occupier of any orchard or nursery, sells any plant or fruit from such orchard or nursery, while such orchard or nursery is not registered in accordance with the provisions of this Act; or
- (c) does or attempts to do any other act in breach of the provisions of this Act, or of any proclamation or regulation thereunder; or
- (d) fails or neglects to perform any duty or obligation imposed on him by this Act, or by any proclamation or regulation thereunder.

(2)

(2) Every person who commits any offence ^{Penalties.} against this Act, or any regulation thereunder, shall (if no other penalty is specified) be liable to a penalty not exceeding *fifty* pounds.

(3) In proceedings against any person for any ^{Onus of proof.} offence against this Act the averments of the prosecutor contained in a sworn information or complaint shall be deemed to be proved in the absence of proof to the contrary.

(4) Whenever in any such prosecution know- ^{Proof of knowledge.} ledge must be shown, such knowledge shall be presumed, unless and until the contrary is proved and the defendant satisfies the Court that the want of knowledge was reasonable and was in no way imputable to negligence on the part of himself, his servant, or agent.

23. (1) The Governor may make regulations to carry ^{Regulations.} out the provisions of this Act, and in particular with respect to the following matters—

- (a) the treatment of plants, fruit, and coverings in which plants or fruit have been contained or packed (whether infected or not) in order to eradicate disease or lessen the risk of disease, or to prevent any pest attacking or being harboured on or in any plant or covering;
- (b) the registration of orchards and nurseries;
- (c) the payment and recovery of fees;
- (d) the fumigation of plants;
- (e) the branding or labelling of coverings containing fruit or plants;
- (f) the detention and examination of plants and of boxes, baskets, packages, and cases;
- (g) the grading and packing of fruit and vegetables.

(2) Such regulations may impose a penalty not exceeding *fifty* pounds for any breach thereof.

(3) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication or from a later date to be specified therein; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within

within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

Fair average quality of fruit and vegetables to be indicated.

24. (1) No person shall sell the whole or any part of any lot of fruit or vegetables, or any fruit or vegetables contained in any package unless the outer layer or shown surface of the fruit or vegetables contained in such lot or package is so arranged or packed that it is a true indication of the fair average quality of the whole of such fruit or vegetables.

Sale of fruit, &c., not up to fair average quality.

The fact that more than ten per centum of such fruit or vegetables is substantially smaller than or inferior to the faced or shown surface of such lot or package shall be prima facie evidence that the fair average quality of such lot or package is not truly indicated.

(2) No person shall sell any fruit or vegetables contained in any package which also contains any foreign substance in a greater proportion than is indicated by the outer layer or shown surface of such fruit or vegetables.

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding *twenty* pounds.