

Plant Diseases Bill.

EXPLANATORY NOTE.

THE present Vine and Vegetation Diseases and Fruit Pests Act, 1912, deals with plant diseases in two main parts—Part II relating to phylloxera of grape vines, and Part III to other diseases and pests.

Part II, which is mainly a repetition of legislation passed in 1893, provides for the proclamation of “vine districts,” and perpetuates the old cumbrous and expensive administration of these “vine districts” by “vine boards.” This part of the Act has become wholly disused.

Part III of the 1912 Act consists of two divisions—Division 1 relating to vegetation diseases, and Division 2 relating to fruit pests. In Division 1 the word “disease” means any disease affecting plants which is by the Governor declared to be a disease within the meaning of Part III of the Act. But although the definition is very comprehensive, Division 2 is directed mainly towards preventing the introduction of disease into the State and the spread of diseases already present. It gives no powers to inspectors to enter land and compel the treatment of diseases. These latter powers are contained in Division 2 of Part III, but this relates only to fruit pests, and the only two fruit pests contemplated by the Act are codlin moth and fruit fly.

The following are the principal new features in the present Bill :—

The definition of “pest” is extended to any organism declared by the Governor to be a pest.

Power is given by section 4 to prohibit the introduction into or movement within the State of infected cases, coverings, and other things which are infected or likely to introduce any disease or pest.

By section 5 the Governor is authorised to—

- appoint specified ports or places of entry for plants or fruit ;
- appoint quarantine stations ;
- declare quarantines ;
- prohibit the use of infected cases, &c. ;
- prohibit the removal of plants or fruit except upon prescribed conditions.

Section 7 requires the notification by occupiers of orchards or nurseries of the appearance of any disease or pest.

Section 11 authorises an inspector to require an owner or occupier to take steps to prevent the spread of disease, although there is not evidence that the orchard or nursery is infected.

Section 14 authorises the destruction by an inspector of infected plants, fruit, or coverings.

Section 15 enables an inspector to demand the necessary particulars regarding the origin of any fruit or plants.

Section 16 provides for the registration of orchards and nurseries.

Section 18 gives power to destroy plants in abandoned orchards and nurseries.

Section 23 gives power to make regulations dealing with the branding and labelling of coverings containing fruit or plants, and with the grading and packing of fruit or vegetables.

Section 24 prohibits the topping up of fruit or vegetables.

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ARRANGEMENT OF CLAUSES.

Clause.	Subject.
1.	Short title.
2.	Repeal and saving.
3.	Interpretation.
4.	Power to prohibit the introduction of things likely to introduce disease.
5.	Power to appoint places of entry and quarantine.
6.	Seizure of prohibited plants.
7.	Notice to be given of appearance of disease.
8.	Appointment of inspectors.
9.	Employment of assistants and use of force.
10.	(1) Power of entry and search. (2) Power to order infected things to be dealt with.
11.	Power to require owner or occupier of orchard to prevent spread of disease.
12.	Steps to be taken when orchard infected.
13.	Recovery of expenses.
14.	Power to destroy infected plants, coverings, &c.
15.	Power to question vendors of fruit.
16.	Orchard and nursery to be registered.
17.	Inspection and certification.
18.	Power to destroy plants in an abandoned orchard or nursery.
19.	Owner to have right of entry.
20.	Notices to be given in writing.
21.	Persons not entitled to compensation.
22.	(1) Offences. (2) Penalties.
23.	Regulations.
24.	Sale of fruit, &c., not up to fair average quality.
25.	Amendment of Fruit Cases Act, 1912.

No. , 1922.

A B I L L

To make further provision to prevent the introduction into New South Wales of diseases and pests affecting plants or 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; to amend the Fruit Cases Act, 1912, and certain other Acts; and for purposes connected therewith.

[CAPTAIN CHAFFEY;— *September, 1922.*]

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 :—

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Preliminary.

- Short title.** **1.** This Act may be cited as the "Plant Diseases Act, 1922."
- Repeal and saving.** **2.** (1) The Vine and Vegetation Diseases and Fruit Pests Act, 1912, is hereby repealed. 10
 (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 15 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.
- Interpretation.** **3.** In this Act, unless the context or subject-matter otherwise requires,— 20
 "Covering" or "package" includes any case, box, bag, wrapper, packing, or material of whatsoever description used or intended to be used for the packing of any plant, fruit, or vegetables. 25
 "Disease" means any disease of plants which the Governor may by notice in the Gazette declare to be a disease, and includes any such disease at any stage of its existence.
 "Fruit" means the product of any plant, and 30 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. 35
 "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"

Plant Diseases.

- “Occupier” includes any person having the charge, control, or management of any orchard or other land or premises.
- 5 “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.
- 10 “Pest” means any organism belonging either to the animal or vegetable kingdom which the Governor may by notice in the Gazette declare to be a pest.
- 15 “Plant” means any tree, vine, flower, shrub, vegetable, or other vegetation of economic value, or which the Governor may by notice in the Gazette declare to be a plant.
- “Prescribed” means prescribed by this Act or regulation made thereunder.
- 20 “Sell” includes offering or attempting to sell, exposing for sale, and sending, forwarding, or delivering for sale.
- 25 “Vegetables” means potatoes, onions, green peas, green beans, or any other vegetable which the Governor may by notice in the Gazette 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 vary such proclamation.

Power to appoint places of entry and quarantine.

5. (1) The Governor may by proclamation— 5

(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 stations where plants or fruit may be grown, or where plants, fruit, coverings, or any thing of any nature or kind whatsoever which has come in contact with plants or fruit may be inspected, disinfected, destroyed, or otherwise disposed of ; 10
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(c) declare any land or building to be in quarantine, and may give such directions as may be necessary to render such declaration effective ;

(d) 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 of any thing with which any plant or fruit has come in contact, or which is likely to convey any disease or pest ; 20
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(e) prohibit the removal from any place of any plant or fruit either absolutely or subject to conditions specified in the proclamation ;

(f) require owners or occupiers of orchards and of nurseries either throughout the State or within any specified portion thereof to take such measures and to do such acts as are specified in the proclamation for the treatment of any disease or pest or the prevention of the spread thereof, and may further require that such measures shall be taken or such acts done at any time or times specified in the proclamation. 30
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(2) The Governor may at any time revoke or vary such proclamation.

Seizure of prohibited plants.

6. (1) Any plant, fruit, covering, or other thing which is dealt with or disposed of in any way contrary 40
to

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
5 with in such manner as the Minister shall direct.

(2) Any expense thereby incurred shall be recoverable by an inspector in any court of competent jurisdiction from either the owner or the person in charge of such plant, fruit, covering, or thing.

10 **7.** The 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, give written notice thereof to an inspector or to the Under Secretary of the Department of
15 Agriculture.

Notice to be given of appearance of disease.

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.

20 **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,
25 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 guilty of an offence.

30 **10.** (1) An inspector may enter any land or premises, and may stop and enter or board any conveyance or 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 dig up plants, open
35 packages, and do such other things as he may deem necessary or expedient.

Power of entry and search.

(2) If an inspector is satisfied that any plant, fruit, vegetables, covering, goods, conveyance, vessel, or thing is infected, he shall give notice to the
owner

Power to order infected things to be dealt with.

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 direct or are prescribed.

Power to require owner or occupier of orchard to prevent spread of disease.

11. An inspector may serve on the owner or occupier 5 of any orchard or nursery a notice requiring him to take such measures or do such acts as are specified in such notice, or are prescribed, to prevent the spread of any disease or pest. Such notice may be given, notwithstanding that there is no evidence that the orchard or 10 nursery is infected.

Steps to be taken when orchard infected.

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 take such measures or do such acts as 15 are specified in such notice or are prescribed.

(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.

Recovery of expenses.

13. In case of any default in compliance with the 20 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 25 by an inspector in any court of competent jurisdiction from the person guilty of the default.

Power to destroy infected plants, coverings, &c.

14. An 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 30 coverings with which such plants or fruit have been contained or packed or any other fruit or coverings with which they have come in contact.

Power to question vendors of fruit.

15. An inspector may require any person having in his possession or under his control any fruit or plants 35 for sale, to answer any questions relating to such fruit or plants.

Any person who refuses to answer any such question to the best of his knowledge, or who wilfully makes a false answer to the same or any part thereof shall be 40 guilty of an offence.

Registration.

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.

5 *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 the Minister, or any officer authorised by the Minister in that behalf, 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.

15 (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.

20 (3) Any person who falsely pretends that he is the holder of any such certificate shall be guilty of an offence.

Abandoned orchards and nurseries.

18. (1) If an inspector reports to the Minister that any orchard or nursery is habitually, or has been for a period of two years, uncultivated or neglected, or that any orchard or nursery by reason of neglect is likely to spread disease or pest, the Minister may give notice to the owner or occupier calling upon him to show cause within a time to be specified in the notice why the Minister should not exercise the powers conferred upon him by this section. Power to destroy plants in an abandoned orchard or nursery.

30 (2) Unless within the time specified in the notice good cause as aforesaid is shown to the satisfaction of the Minister the Minister may cause all plants in the orchard or nursery, which in the opinion of an inspector are likely to harbour or spread any disease or pest, to be destroyed, and any cost thereby incurred may be recovered by an inspector in any court of competent jurisdiction from either the owner or occupier of such orchard or nursery.

Miscellaneous.

Miscellaneous.

Owner to
have right of
entry.

19. The owner of any orchard, nursery, land, or premises which is or are in the occupation of another person as lessee or otherwise shall have full right of entry on and into the same, and of remaining thereon and therein for the purpose of the performance of any duty or obligation imposed upon him under this Act. 5

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 guilty of an offence. 10

Notices to
be given in
writing.

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 or if 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. 15

Persons not
entitled to
compensa-
tion.

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 unless the same was occasioned wilfully, negligently, or without necessity. 20 25

Offences.

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

(a) without reasonable cause sells or brings upon or removes from his premises any plant, fruit, covering, or thing of any nature or kind whatsoever which is infected or which is likely to convey infection or which has been introduced into this State in contravention of the provisions of any proclamation or regulation under this Act; or 30 35

(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 unless such orchard or nursery is exempted from registration; or 40

(c)

- (c) does or attempts to do any act in breach of the provisions of this Act, or of any proclamation or regulation thereunder; or
- 5 (d) without reasonable excuse fails or neglects to perform any duty or obligation imposed on him by this Act, or by any proclamation or regulation thereunder; or
- 10 (e) without reasonable excuse fails or neglects to comply with the requirements of any notice served upon him or given to him by an inspector under this Act or any regulation thereunder.

(2) Any person who commits any offence against Penalties. this Act, or any regulation thereunder, shall (if no other 15 penalty is specified) be liable to a penalty not exceeding *fifty* pounds.

- 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—
- 20 (a) the examination, detention, treatment or destruction of any thing, including plants, fruit, and coverings, in order to eradicate or lessen the risk of disease or pest, or to prevent any disease or pest attacking or being harboured thereon or therein;
- 25 (b) the registration of orchards and nurseries;
- (c) the payment and recovery of fees;
- (d) the branding or labelling of coverings containing fruit or plants;
- 30 (e) the grading and packing of fruit or vegetables;
- (f) the inspection of and the granting of certificates as to the quality and condition of fruit, plants, or vegetables intended for sale or export;
- 35 (g) prescribing the payment of fees—
- (i) for registration under this Act;
- (ii) in respect of any inspection, disinfection or destruction by an inspector at any port of entry or quarantine station;
- 40 (iii) for the granting of any certificate as to quality or condition;
- (h) the recovery of fees prescribed.

(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 5 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 fourteen days after the commencement 10 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, 15 such regulation shall thereupon cease to have effect.

*Fair average quality of fruit and vegetables
to be indicated.*

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

24. (1) No person shall sell any fruit or vegetables 20 unless such fruit or vegetables are so packed or arranged that the outer layer or shown surface thereof is a true indication of the fair average quality of the whole of such fruit or vegetables.

The fact that more than ten per centum of such fruit 25 or vegetables is substantially smaller than or inferior to the outer layer or shown surface of such fruit or vegetables shall be prima facie evidence that the fair average quality of such fruit or vegetables is not truly indicated. 30

(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 prescribed.

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding 35 *twenty* pounds.

Amendment of Fruit Cases Act, 1912.

Amendment
of Act 72 of
1912, s. 7.

25. Section seven of the Fruit Cases Act, 1912, is amended by omitting from paragraph (a) of subsection one the words "Vines and Vegetation Diseases Act, 40 1901, or Fruit Pests Act, 1906" and inserting in lieu thereof the words "Plant Diseases Act, 1922."