

VINE AND VEGETATION DISEASES AND FRUIT PESTS.

No. 4 of 1922.^(a)

An Ordinance relating to Vine and Vegetation Diseases and Fruit Pests.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Vine and Vegetation Diseases and Fruit Pests Ordinance* 1922. Short title.
2. This Ordinance shall commence on a day to be fixed by the Minister by notice in the *Gazette*. Commencement.
3. This Ordinance is divided into Parts, as follows:— Parts.
 - PART I.—Preliminary.
 - PART II.—Vine Diseases.
 - PART III.—Vegetation Diseases.
 - PART IV.—Fruit Pests.
 - PART V.—Miscellaneous.

(a) Made on 13th July, 1922; notified in *Gazette* of 20th July, 1922; affected by No. 12 of 1924, *infra* p. 114.

Definitions.

4. In this Ordinance, unless the contrary intention appears—

“Disease” means the disease in grape vines caused by the insect *phylloxera vastatrix*, the disease in apple trees caused by the insect *Schizoneura Lanigera*, commonly known as “woolly aphis” or “American blight”, and includes any disease which is notified by the Minister by notice in the *Gazette* to be a disease within the meaning of this Ordinance;

“Diseased” means affected with or liable to be affected with disease;

“Fruit” means the edible product of any plant, including the peel, skin, or shell of that product, and includes the seeds of the plant;

“Fruit pest” means the codlin moth (*carpocapsa pomonella*) or any species of fruit fly (*Tephritidae*) in whatever stage of existence it may be;

“Fungus” means any fungus or vegetable parasite which is notified by the Minister by notice in the *Gazette* to be a fungus or vegetable parasite within the meaning of this Ordinance;

“Inspector” means an inspector appointed under this Ordinance;

“Owner” includes occupier, lessee, licensee, manager, or other person entitled to any land whether on his own account or as agent, trustee or attorney;

“Plant” means any tree, vine, flower, shrub, vegetable or other vegetation of economic value or otherwise, and includes the fruit or any other product or any part of a plant;

“Quarantine” means a parcel of land or a building set apart for the reception of plants or fruit known or supposed to be diseased;

“Root up” means to remove the original cutting, layer, stock or tree with the whole of its main root system attached;

“Vine” means a grape vine alive or dead, and includes any part of a grape vine; and

“Vineyard” means any parcel of land whereon one or more vines are planted or growing.

State Acts to
cease to apply.

5. The Acts of the State of New South Wales specified in the First Schedule to this Ordinance shall cease to apply to the Territory.

Delegation
by Minister.

6.—(1) The Minister may by writing under his hand delegate any of his powers and functions under this Ordinance (except this power of delegation) in relation to any matters or class of matters,

so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

7.—(1.) For the purpose of the administration of this Ordinance the Minister may appoint such inspectors as he thinks fit.

Appointment
of Inspectors.

(2.) All appointments made under this section shall be notified in the *Gazette*.

PART II.—VINE DISEASES.

8.—(1.) The Minister may, by notice in the *Gazette*—

- (a) prohibit the introduction into the Territory from any place outside the Territory of vines, grapes or packages containing or which have contained, or packages, implements, matters or things which have been in contact with, vines or grapes the introduction of which has been or is prohibited;
- (b) prohibit the removal from one place to another within the Territory of vines, grapes, packages, implements, matters or things likely to convey disease;
- (c) declare any land or any building to be a quarantine; and
- (d) isolate in the prescribed manner any quarantine or any vineyard, building, land or place whereon there are or have recently been diseased vines or grapes.

Prohibition of
introduction of
vines into
Territory, &c.

(2.) Any prohibition under the last preceding sub-section may be absolute or contingent on the non-performance of any prescribed conditions.

(3.) The Minister may at any time, by notice in the *Gazette*, alter or revoke any notice under this section.

9. An inspector may—

- (a) enter at any time, with or without assistants, any building, land or place containing vines or grapes introduced into the Territory, and search therein for diseased vines or grapes, remove therefrom vines or grapes to a quarantine for further examination, and destroy vines or grapes found to be diseased; and
- (b) enter, with or without assistants, any vineyard and examine vines and grapes therein, and by notice in the form contained in the Second Schedule to this Ordinance temporarily isolate a vineyard in which he finds disease or any sign thereof, pending report to the Minister and action thereon.

Powers of
Inspectors.

Neglected
vineyards.

10.—(1.) If the owner of a vineyard ceases for two years to cultivate it an inspector may serve him with a notice to root up all vines therein.

(2.) If an owner fails, within three months after service of a notice under this section, to root up the vines the Minister may cause the vines to be rooted up, and may recover from the owner, in any court of summary jurisdiction, the cost of rooting up.

Vine growers
to notify
appearance
of disease.

11.—(1.) The owner, tenant or person in charge of a vineyard shall immediately upon the appearance of any sign which may reasonably be suspected to be caused by disease give notice thereof in writing to an inspector or to the Minister.

(2.) Any person who wilfully fails to comply with this section shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

Diseased
vineyard not to
be replanted.

12.—(1.) Any person who, within four years after the removal of diseased vines from any land, plants vines in that land shall be guilty of an offence.

Penalty: One hundred pounds.

(2.) All vines planted in contravention of this section shall be destroyed by an inspector or district inspector.

Penalty for
selling infected
vines or grapes.

13. Any person who sells, offers or exposes for sale any grapes or vines infected with disease shall be guilty of an offence.

Penalty: Five pounds in addition to any other penalty provided in this Part of this Ordinance.

PART III.—VEGETATION DISEASES.

Prohibition of
introduction of
diseased plants.

14.—(1.) The Minister may, by notice in the *Gazette*, prohibit the introduction into the Territory of any plant which in his opinion is likely to introduce any disease or insect.

(2.) Every such prohibition may be absolute or contingent on the non-performance of any prescribed conditions.

(3.) The Minister may at any time alter or revoke any notice under this section.

Prohibition of
introduction of
insect or fungus.

15. No person shall bring or cause to be brought into the Territory, except for scientific purposes only and with the consent of the Minister, any insect or fungus.

Destruction of
insects, fungi,
and plants.

16. Any insect, fungus or plant brought into the Territory in contravention of this Ordinance or of any notice given thereunder, and any diseased plant brought into the Territory and any package or thing containing or suspected to contain, or to have contained, any diseased plant, may be seized by an inspector and destroyed or otherwise dealt with as the Minister directs.

17. An inspector may at any time enter any place, with or without assistants, and search for insects, fungi, diseased plants and packages likely to convey disease and may remain there for that purpose so long as is necessary. Power to enter.

PART IV.—FRUIT PESTS.

18.—(1.) An inspector may enter any land or building, with or 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 the search. Treatment of fruit pests.

(2.) If the inspector finds 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.

(3.) Upon receipt of a report under the last preceding sub-section the Minister may, by notice in writing served on the owner or occupier of the land or building referred to in the report, require him, within a time specified in the notice, to take such measures and do such acts as are specified in the notice for the treatment or the destruction of the fruit pest, plant or package, and further notify him that in default of compliance with the requirement an authorized person will, in pursuance of this Part of this Ordinance, take those measures and do those acts at the expense of the owner or occupier.

(4.) If any person on whom a notice is served under the last preceding sub-section is of opinion that the 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 specified in the notice, apply in the prescribed manner, to a court of summary jurisdiction, 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 the Court may make such order in the premises as it thinks just.

(5) If any person on whom a notice is served under sub-section (2.) of this section—

(a) has not, within the time mentioned in the notice, complied with the requirements of the notice nor applied under this section to cancel or vary the notice; or

(b) has not, within the time limited in any order of a magistrate made under this section, complied with the order or with a notice as varied by the order,

an inspector may, with or without assistants, enter the land or building and take the measures and do the acts mentioned in the notice or order, and may recover the cost thereof from the owner or occupier in any court of competent jurisdiction.

Minister may
order
destruction of
fruit or plants.

19.—(1.) If in the opinion of the Minister the destruction of any fruit or plant infected by any fruit pest or disease, or any package or thing likely to convey any fruit pest or disease is a matter of necessity and urgency, he may by order in writing direct the destruction, by any person referred to in the order, of the fruit, plant, package or thing.

(2.) The cost of the destruction under this section of any fruit plant, package or thing shall be borne by the owner thereof.

PART V.—MISCELLANEOUS.

Offences.

20. Any person who—

- (a) refuses to allow any inspector, after production of his authority, to enter his land or buildings, or obstructs or hinders any inspector in the execution of his powers and duties under this Ordinance; or
- (b) disobeys or fails to comply with any provision, notice, direction or order of or under this Ordinance,

shall be guilty of an offence.

Penalty: Where no other penalty is provided by this Ordinance Twenty pounds.

Penalty on
inspector or
officer.

21. Any inspector or officer who wilfully violates or fails to comply with, or refuses or fails to enforce, any provisions of this Ordinance or any regulations thereunder shall be guilty of an offence.

Penalty: Fifty pounds.

Regulations.

22.—(1.) The^(a) Minister may make regulations not inconsistent with this Ordinance prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the regulations.

(2.) All regulations made by the Minister under this Ordinance shall—

- (a) be notified in the *Gazette*; and
- (b) be laid before both Houses of the Parliament within thirty days of the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

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

^(a) This section has since been repealed by No. 12 of 1924, *infra* p. 114.

THE SCHEDULES.

THE FIRST SCHEDULE.

Reference to Act.	Short Title.
No. 14, 1901	<i>Vine and Vegetation Diseases Act 1901</i>
No. 37, 1906	<i>Vine and Vegetation Diseases (Fruit Pests) Act 1906</i>

THE SECOND SCHEDULE.

NOTICE OF TEMPORARY ISOLATION.

Notice is hereby given that I have from this day isolated the vineyard owned or occupied by you situated (*insert situation of vineyard*). The vineyard will continue to be isolated until released therefrom by order of the (*insert "Minister" or as the case requires*).

(Signed)

Inspector.