



ANNO DECIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1968

No. 47 of 1968

An Act to protect fruit and plants from pests and disease.

[Assented to 19th December, 1968.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Fruit and Plant Protection Act, 1968", and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2. (1) The Vine, Fruit and Vegetable Protection Act, 1885, the Vine, Fruit and Vegetable Protection Amendment Act, 1910, and the Vine, Fruit and Vegetable Protection Act Amendment Act, 1959, are repealed. Repeal and saving.

(2) The second schedule to the Statute Law Revision Act, 1935, and the second schedule to the Statute Law Revision Act, 1936, are amended by striking out such portions thereof as relate to the Vine, Fruit and Vegetable Protection Act, 1885, or the Vine, Fruit and Vegetable Protection Amendment Act, 1910.

(3) A person appointed under the Vine, Fruit and Vegetable Protection Act, 1885-1959, as chief inspector or an inspector, and holding that office immediately before the commencement of this Act, shall be deemed to have been appointed to the corresponding office under this Act and shall be subject to the provisions of this Act accordingly.

(4) All proclamations and regulations in force under the Vine, Fruit and Vegetable Protection Act, 1885-1959, immediately before the commencement of this Act, shall, insofar as not inconsistent with an express provision of this Act, be deemed to have been made under this Act and shall remain in force until revoked under this Act.

Interpretation.

3. In this Act, unless the contrary intention appears—

“disease” includes any infection or affection of a fruit or plant that the Governor declares by proclamation (which he is hereby empowered to do) to be a disease for the purposes of this Act, and any abnormality or disorder of, or injury to, a fruit or plant caused by a pest :

“fruit” includes the peel, skin, shell, husk, seed, stone or nut of any fruit :

“host fruit” means fruit of a species that is susceptible to disease :

“host plant” means a plant of a species that is susceptible to disease :

“inspector” includes the chief inspector :

“orchard” means any place whereon or wherein host plants are grown or propagated :

“owner” includes occupier, manager or superintendent :

“packaging” includes any covering, container, package, case, box, bag, wrapping, packing and any material of any description that is being, or has been used to cover or contain any fruit or plant :

“pest” means any organism or micro-organism that the Governor declares by proclamation (which he is hereby empowered to do) to be a pest for the purposes of this Act :

“plant” means any tree, vine, flower, shrub, vegetable or other vegetation, or any part thereof, or any material for the propagation thereof, whether alive or dead, and includes timber that has been sawn or dressed :

“quarantine area” means an area declared by proclamation under section 7 of this Act to be a quarantine area.

4. (1) The Governor may, by proclamation, prohibit absolutely, or prohibit unless certain conditions specified in the proclamation are complied with, the importation or introduction into the State or any part thereof of—

Governor may prohibit introduction of certain fruit and plants into the State.

- (a) any pest, or any fruit or plant affected by disease ;
- (b) any fruit or plant of a species that is, in the opinion of the Governor, likely to introduce a pest or disease into the State ;
- (c) any host fruit or host plant of any species that has been grown in a place, country, region, area or place, specified in the proclamation, in which host fruit or host plants of that species are subject to pests or disease ;

and

- (d) any packaging in which any fruit or plant affected by disease has been contained or packed, or any goods with which it has come in contact.

(2) A person shall not contravene a proclamation under subsection (1) of this section.

Penalty: Two hundred dollars or imprisonment for three months.

5. (1) The Governor may, by proclamation, specify any ports or places as the only ports or places wherethrough host fruit, host plants or packaging may be introduced into the State.

Governor may specify ports and places wherethrough host fruit and plants may be introduced into the State.

(2) A person shall not introduce any host fruit, host plant or packaging into the State except through a port or place specified in a proclamation under subsection (1) of this section.

Penalty: Two hundred dollars or imprisonment for three months.

6. The Governor may, by proclamation, declare any place or area to be a quarantine station wherein fruit, plants and packaging may, subject to this Act, be subjected to any examination, disinfected or otherwise treated, destroyed or otherwise disposed of.

Quarantine stations.

7. (1) The Governor may by proclamation—

Quarantine areas.

- (a) declare any portion of the State, specified in the proclamation, to be a quarantine area (either in respect of all pests and diseases or of such pests and diseases as are specified in the proclamation) ;
- (b) prohibit the removal from a quarantine area of any fruit or plant of a species specified in the proclamation and of any packaging or other thing, specified in the proclamation, that, in his opinion, might transmit a pest or disease ;

- (c) require the owners of land within a quarantine area to take prescribed measures for the control or eradication of a pest or disease ;
 - (d) require the owners of land within the quarantine area to take such measures (in addition to those prescribed) for the control or eradication of a pest or disease (including, if he thinks it necessary, the uprooting and destruction of plants and the destruction of fruit) as are specified in the proclamation ;
 - (e) require the owners of land within specified portions of the quarantine area to take more stringent measures, specified in the proclamation, than the owners of the remainder of the land within the quarantine area ;
- and
- (f) prohibit the planting and propagation of plants, or plants of a specified species, within the quarantine area during a period specified in the proclamation.

(2) A person shall not contravene or fail to comply with a proclamation under subsection (1) of this section.

Penalty : Two hundred dollars or imprisonment for three months.

Notifiable pests and diseases.

8. (1) The Governor may, by proclamation, declare certain pests and diseases to be notifiable pests and diseases.

(2) A person who discovers any fruit or plant affected by a pest or disease declared by proclamation to be a notifiable pest or disease, shall forthwith notify the chief inspector of that discovery and shall furnish him with such information in relation thereto as he may, by notice in writing served personally or by post upon that person, require.

Penalty : Two hundred dollars.

(3) The owner of an orchard in which there is any fruit or plant affected by a pest or disease, declared by proclamation to be a notifiable pest or disease, shall be deemed to have discovered that the fruit or plant was so affected unless the contrary is proved.

Measures to be taken by orchardists.

9. (1) The Governor may, by proclamation, require the owner of every orchard to apply to all host trees therein such treatment and measures as he deems necessary to prevent the outbreak or spread of a pest or disease and specifies in the proclamation.

(2) A person shall not fail to comply with a proclamation under subsection (1) of this section.

Penalty : Two hundred dollars.

10. (1) The Minister may appoint a chief inspector and such inspectors as he deems necessary for the purposes of this Act. Appointment of inspectors.

(2) A chief inspector or inspector shall hold office subject to such terms and conditions as the Minister may determine.

(3) A chief inspector or inspector shall be entitled to receive such remuneration as the Minister may determine.

11. (1) An inspector may, with or without assistants, enter into or upon any land, premises, vehicle, train, aircraft, vessel, carriage or conveyance on or in which there is, or he suspects that there is, any fruit or plant affected by a pest or disease and may examine any fruit or plant thereon or therein for the purpose of determining whether it is so affected. Powers of inspectors.

(2) An inspector may disinfect or otherwise treat, or cause to be disinfected or otherwise treated, any fruit or plant that he finds to be affected by a pest or disease and any packaging or goods in or with which it has been packed.

(3) An inspector may remove and destroy or cause to be removed and destroyed any fruit or plant that he finds to be affected by any prescribed pest or disease, and any packaging in which it has been packed.

(4) An inspector may make or erect on any land whereon any fruit or plant has been found affected by a pest or disease such marks or notices as he deems necessary to indicate that a specimen of the fruit or plant has been removed therefrom for the purpose of examination, or that upon examination has been found affected by a pest or disease.

(5) If the removal of any fruit or plant from any land or premises has been prohibited under any provision of this Act, an inspector may erect or cause to be erected notice of that fact upon the land or premises.

(6) A person shall not interfere with any mark or notice made or erected under this section.

Penalty : Two hundred dollars.

12. (1) If an inspector is of opinion that any fruit or plant is affected by a pest or disease, he may serve upon the owner of the land or premises whereon or wherein the fruit or plant was discovered a notice directing that prescribed measures specified in the notice be taken for the control or eradication of the pest or disease. Inspector may require owners to take prescribed measures.

(2) An inspector may serve upon the owners of any land that is, in his opinion, in such proximity to the place wherein the fruit or plant was found to be affected by a pest or disease

that the pest or disease might be transmitted thereto, notices directing that prescribed measures specified in the notices be taken to prevent the spread of the pest or disease.

(3) A notice under this section may also contain a direction (which may be varied or revoked by a subsequent notice) that the owner of the land or premises must not remove, or permit to be removed therefrom, any fruit, plant or packaging during a period specified in the notice.

(4) A person shall not contravene, or fail to comply with, a notice under this section.

Penalty : Two hundred dollars.

Minister may
empower
inspectors to
take action.

13. (1) If, in the opinion of the Minister, adequate measures for the control or eradication of a pest or disease are not being taken, the Minister may direct an inspector to implement such measures for the control or eradication of the pest or disease as the inspector deems necessary including, if the Minister so directs (but not otherwise), the destruction of fruit, plants and packaging.

(2) Where the Minister has given a direction under subsection (1) of this section, the inspector may with or without assistants, enter upon any land or premises and implement measures for the control or eradication of the pest or disease in accordance with the direction of the Minister.

(3) Any expenses incurred by an inspector in acting under subsection (2) of this section may be recovered by him as a debt due to him from the owner of the land or premises whereon or wherein the action was taken, in any court of competent jurisdiction.

(4) The Minister may delegate to the chief inspector his powers under this section but such a delegation shall not derogate from the powers of the Minister to act under this section himself.

Certain
immunity from
liability.

14. (1) No liability shall attach to an inspector for anything done by him *bona fide* and without negligence in the exercise or performance, or purported exercise or performance, of his powers or functions under this Act.

(2) No liability shall attach to any person for anything done by him *bona fide* and without negligence in assisting an inspector purporting to exercise or perform his powers or functions under this Act.

15. A person shall not obstruct or impede an inspector, or a person *bona fide* assisting an inspector, in the exercise or performance of his powers or functions under this Act.

Obstruction of
inspector or
assistants.

Penalty : Two hundred dollars.

16. Proceedings for offences under this Act shall be disposed of summarily.

Summary
disposal of
offences.

17. Where under this Act provision is made for an inspector to serve a notice upon the owner of any land or premises that notice may be served—

Service.

(a) personally ;

or

(b) by registered post ;

or

(c) by affixing it in some conspicuous place upon the land or premises.

18. The moneys required for the purposes of this Act shall be paid out of moneys appropriated by Parliament for those purposes.

Financial
provision.

19. The Governor may, by proclamation, amend, vary or revoke a proclamation under this Act.

Governor may
amend, vary
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proclamation.

20. The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, regulations—

Regulations

(a) prescribing the measures to be taken by the owners of orchards to prevent the outbreak or spread of pests and diseases ;

(b) prescribing the pests and diseases that entitle an inspector to remove and destroy a fruit or plant affected thereby under section 11 of this Act ;

(c) prescribing the measures to be taken for the control or eradication of a pest or disease by persons upon whom a notice has been served under section 12 of this Act ;

(d) prescribing the measures for the control or eradication of a pest or disease to be taken by owners of land within a quarantine area, which measures may relate to quarantine areas generally or to areas quarantined in respect of a particular pest or disease ;

- (e) prescribing the treatment to which the owners of orchards within a quarantine area shall subject fruit and plants grown upon their orchards ;
 - (f) prohibiting the export of any specified species of host fruit or host plant from an area quarantined in respect of any specified pest or disease ;
 - (g) prohibiting the removal of any fruit or plant affected by a pest or disease from the place wherein it is found to be so affected or prescribing the conditions that must be satisfied before such removal ;
- and
- (h) prescribing the penalties, recoverable summarily, not exceeding two hundred dollars, for breach of or non-compliance with the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.