



ANNO UNDECIMO

**ELIZABETHAE II REGINAE**

A.D. 1962

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**No. 41 of 1962**

An Act to provide for the control and eradication of San José Scale and for other purposes.

[Assented to 8th November, 1962.]

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

- Short title.**        **1.** This Act may be cited as the "San José Scale Control Act, 1962".
- Commence-  
ment.**            **2.** This Act shall come into force on a day to be fixed by the Governor by proclamation.
- Interpretation.**    **3.** In this Act, unless the context otherwise requires—
- "Committee" means a San José Scale Committee appointed by the Minister pursuant to section 7 of this Act :
- "district" means an area declared by the Governor to be a district under section 4 of this Act :
- "host tree" means all or any of the following trees, namely, almond tree, apricot tree, peach tree, pear tree, nectarine tree, apple tree and any other shrub, vine or plant known to be infested with San José Scale :
- "orchard" means any area of land on which not less than forty host trees are growing :
- "San José Scale" means the insect pest known as *quadraspidotus perniciosus* or "San José Scale":

“tree”, “vine”, “shrub” and “plant” respectively shall include the fruit or other product of the tree, vine shrub or plant and any or every part of the tree, vine, shrub or plant and of the fruit or product thereof.

4. The Governor may by proclamation declare any area in the State to be a district for the purposes of this Act. The Governor may at any time amend or revoke any such proclamation.

Declaration of districts.

5. Subject to this Act and the regulations every owner or keeper of an orchard within a district shall cause such orchard to be registered at the Department of Agriculture.

Orchards to be registered.

6. (1) The Minister may, whenever it appears expedient so to do, direct that a poll be held within a district on the question whether a San José Scale Committee shall be appointed for that district.

Poll for constitution of San José Scale Committee.

(2) The Returning Officer for the State shall conduct the poll upon the day fixed by the Minister.

(3) Every person who at least twenty-one days before such day shall be registered pursuant to section 5 of this Act as the owner or keeper of an orchard within the district shall be qualified to vote at the poll: Provided that where two or more persons are so registered only one of such persons shall be qualified to vote at the poll; such person shall be that one of their number nominated by the owners or occupiers concerned at the time of registration. The Minister shall prepare and supply for the Returning Officer of the State a list of all persons so qualified to vote and the persons whose names appear on that list and no others shall be entitled to vote at the poll.

(4) The poll shall be conducted by postal vote and each voter shall have one vote.

(5) Subject to this Act and the regulations the poll shall be conducted in such manner as the Returning Officer for the State deems proper.

(6) The Governor may make regulations prescribing any matters necessary or convenient for or in connection with any poll to be held under this section.

7. If on a poll being taken pursuant to section 6 of this Act at least sixty per centum of those persons who vote on the question being not less than thirty per centum of all the persons qualified and entitled to vote thereon, vote in favour of the appointment of a Committee for the district, the following provisions shall operate and have effect:—

Result of Poll.

**Constitution of  
San José Scale  
Committee.**

- (a) the Minister shall, by notice in the *Gazette*, appoint and name a San José Scale Committee for the district ;
- (b) such Committee shall consist of five members, four of whom shall be persons who were entitled to vote at the poll and who may at the Minister's discretion be nominated by such growers' organization or association within the district as the Minister shall approve ; the fifth member of the Committee shall be nominated by the Minister and shall be the chairman of the Committee ; each member shall hold office for a term of three years and shall be eligible for reappointment from time to time ;
- (c) the Governor may make regulations prescribing the holding of, and procedure at, meetings of the Committee, the filling of casual vacancies, and the payment out of the funds of the Committee of fees and allowances to members of the Committee for their services as such.

**Poll for  
dissolution of  
Committee.**

**8.** (1) The Minister shall when requested so to do by a petition signed by not less than ten per centum of the persons registered as owners or keepers of orchards within a district, direct that a poll be held within the district on the question whether the Committee for that district should be dissolved. The provisions of subsections (2), (3), (4), (5) and (6) of section 6 shall apply in respect of any such poll.

(2) If on the taking of such a poll at least sixty per centum of those persons who vote on the question, being not less than thirty per centum of all the persons qualified and entitled to vote thereon, vote in favour of the dissolution of the Committee for the district the Committee shall proceed to wind up its affairs and when the affairs of the Committee are wholly wound up all moneys and other assets held by the Committee shall become the property of Her Majesty and shall be dealt with as the Minister directs.

(3) No petition under this section shall be presented within a period of three years after the holding of a poll under this section.

**Powers of  
Committee.**

- 9.** A Committee shall have the following powers, namely :—
- (a) to take all such steps as the Committee shall deem fit for the control and eradication of San José Scale within the district ;
  - (b) by any person or persons authorized in writing by the Committee under the hand of its Chairman to enter upon any land or premises within the district and

for the purpose of controlling and eradicating San José Scale, to remove, spray, fumigate, prune or otherwise treat all or any trees, vines, shrubs and plants therein with such materials and by such methods as the Committee shall from time to time on the recommendation of the Director of Agriculture determine ;

- (c) to establish and administer a fund to consist of moneys received pursuant to this Act ;
- (d) to purchase, hire, or acquire, plant, equipment and materials ;
- (e) to borrow money to enable it to exercise any of the powers or functions conferred on it by this Act and to give security over any of its assets for repayment of moneys so borrowed ;
- (f) to appoint and engage such officers and employees as the Committee shall think fit and to remunerate them with moneys from the fund ;
- (g) to demand and recover payment of fees and charges from the owner or occupier of any land or premises in the district for any treatment carried out by or on behalf of the Committee in pursuance of this Act and to fix any accounting period in relation to the liability for and payment of those fees and charges ;
- (h) to estimate the fees and charges payable in respect of an accounting period so fixed, by any such owner or occupier and demand and recover from him one half of those fees and charges at the commencement of that period and the balance of those fees and charges not earlier than four months thereafter ;
- (i) to refund to, or demand and recover from such owner or occupier, so soon as it can be ascertained, the amount by which the estimate of the fees and charges is greater or less as the case may be than the assessment of the fees and charges ;
- (j) to commence and maintain by and in the name of the Chairman of the Committee proceedings against, and to recover from any owner or occupier any such fees and charges by action in the local court nearest to the land or premises in respect of which such charge shall have been made, provided that the Committee may, in its discretion, waive or settle any such charges ;
- (k) such other powers, not inconsistent with this Act, as may be prescribed.

**Contributions to Committee.**

**10.** (1) A Committee may, by notice in the *Gazette* from time to time require persons who are registered under this Act in the district for which the Committee is appointed to pay to the Committee contributions in such amounts or at such rates as the Minister shall from time to time approve towards the general costs of the administration of this Act by the Committee.

(2) The notice shall specify the persons or classes of persons who are required to pay contributions, the amount of the contributions or the manner in which they are computed and the time on or before which they must be paid.

(3) The Committee shall, by post or personal service, give to every person liable to contribute under this section a written notice of the amount payable by him and the time when that amount is to be paid, and if the Committee decides that contributions may be paid by instalments, the notice shall also state the amount of the instalments and the times when they are to be paid. The contribution shall be payable in accordance with the notice.

(4) If any contribution or instalment thereof is not paid in full as and when it becomes payable, the Committee may by and in the name of the Chairman of the Committee recover the amount owing, as a debt, by action in any court of competent jurisdiction.

**Obstruction of Committee.**

**11.** A person shall not obstruct, interfere with or wilfully delay a Committee or any officer or employee of a Committee or any person or persons authorized in writing by the Committee in the execution of any of his duties or powers under this Act.

**Validity of acts of Committee.**

**12.** All acts and proceedings of a Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or at the time of the act or proceeding there was a vacancy in the office of any member, be as valid as if all the members had been duly appointed and had acted as members of the Committee and as if the Committee had been properly and fully constituted.

**Protection to Committee.**

**13.** Neither a Committee nor any member, officer or employee thereof or person authorized in writing by it shall be liable except in respect of any wilful neglect or default to any legal proceedings for anything done in pursuance of this Act.

**14.** Every person who contravenes or fails to comply with any provision of this Act or the regulations whether by act or omission shall be guilty of an offence and liable on conviction of a fine not exceeding one hundred pounds. **General penalty.**

**15.** Proceedings for offences against this Act shall be heard and determined summarily. **Summary procedure.**

**16.** The Governor may make regulations not inconsistent with this Act prescribing all matters required or permitted to be prescribed or which may be necessary or convenient to be prescribed for giving effect to this Act. **Regulations.**

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

EDRIC BASTYAN, Governor.