

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 26 August, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to make further provisions with respect to the branding or labelling of coverings containing fruit or plants and the grading and packing of fruit or vegetables; to simplify the procedure for prescribing the treatment of diseases of plants; to enable the Minister to authorise persons to act as inspectors; to avoid certain doubts; for these and other purposes to amend the Plant Diseases Act, 1924, and the Horticultural Stock and Nurseries Act, 1969; and for purposes connected therewith.

BE

Plant Diseases (Amendment).

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Plant Diseases (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) Sections two and four of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

2. The Plant Diseases Act, 1924, is amended—

Amendment
of Act No.
38, 1924.

(a) by inserting next after section eighteen the following new section :—

New sec.
18A.

15 18A. (1) In this section, a reference to a covering includes a reference to any fruit or plant contained in the covering.

Detention
notices.

(2) This section applies to—

20 (a) a covering that is required by the regulations to be branded or labelled as prescribed and is not so branded or labelled;

(b) a fruit that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed;

25

and

(c) a vegetable that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed.

30 (3) Where a person is in possession or control of coverings or fruit or vegetables to which this section applies, an inspector may give to that person

person

Plant Diseases (Amendment).

person a notice that is in the prescribed form and requires that person, except in so far as the notice is cancelled as provided by subsection nine of this section—

- 5 (a) to keep at a specified place;
- (b) to refrain from selling, or otherwise dealing with or disposing of; and
- (c) to refrain from permitting or suffering any other person to sell or otherwise deal with
- 10 or dispose of,

those coverings, that fruit or those vegetables.

- (4) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a notice given under subsection three of this section relates.
- 15

(5) Where a person has been given a notice under subsection three of this section an inspector may—

- (a) at the request of that person; and
- 20 (b) on payment of the prescribed fee in the prescribed manner,

change the brands or labels on a covering to which the notice relates to the extent necessary to ensure that the covering is branded or labelled as prescribed.

25

(6) Where a person has been given a notice under subsection three of this section and an inspector has not exercised the powers conferred on him by subsection five of this section, that person shall—

30

- (a) regrade or repack the fruit or vegetables to which the notice relates to the extent necessary to ensure that that fruit is or those vegetables are, graded or packed as prescribed

Plant Diseases (Amendment).

prescribed and to ensure that the covering containing that fruit or those vegetables is branded or labelled as prescribed; or

- 5 (b) deal with, or dispose of, the fruit or vegetables to which the notice relates in a manner approved or directed in writing by an inspector.

- 10 (7) A person shall be deemed to have complied with subsection six of this section if that which he would be required to do in order to comply therewith is done on his behalf or at his direction.

- 15 (8) For the purposes of section nine of this Act, a person who is required to comply with subsection six of this section in respect of a covering or fruit or vegetables and fails to do so shall be deemed to have dealt with, or disposed of, that covering or fruit or those vegetables contrary to the direction of an inspector.

- 20 (9) Where a notice has been given under subsection three of this section and an inspector—

- 25 (a) has exercised the powers conferred on him by subsection five of this section in respect of a covering to which the notice relates; or

- (b) is satisfied—

- 30 (i) that subsection six of this section has been complied with in respect of a covering or fruit or vegetables, to which the notice relates; and

- (ii)

Plant Diseases (Amendment).

- (ii) that the prescribed fee has been paid in the prescribed manner,

an inspector shall give to the person to whom the notice was given a cancellation of the notice in the prescribed form in so far as the notice relates to that covering or fruit or those vegetables.

(10) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a cancellation given under subsection nine of this section relates.

(11) In any prosecution for an offence against this Act in respect of coverings, fruit or vegetables, proof that a notice was given under subsection three of this section in relation to the coverings, fruit or vegetables shall be prima facie evidence that the notice had not, at the time of the alleged offence, been cancelled in so far as it related to the coverings, fruit or vegetables.

(12) Where a prescribed fee for the purposes of this section is paid by a person who is not the owner of the coverings or fruit or vegetables in respect of which the payment is made, an amount equal to the amount of that fee—

(a) may be recovered from the owner by that person in any court of competent jurisdiction as a debt due and owing by the owner; and

(b) shall, if that person is a licensed farm produce agent under the Farm Produce Agents Act, 1926, be deemed to be an out-of-pocket expense properly payable by the principal for the purposes of the Farm Produce Agents Act, 1926,

to the extent to which it has not been waived or remitted in accordance with subsection thirteen of this section.

(13)

Plant Diseases (Amendment).

(13) The Minister may waive or remit the whole or any part of a prescribed fee for the purposes of this section.

- 5 (b) by inserting at the end of paragraph (f) of sub- Sec. 28.
section one of section twenty-eight the following (Regu-
new subparagraph :— lations.)

(iv) for the purposes of section 18A of this Act.

3. (1) The Plant Diseases Act, 1924, is further
amended—

Further
amendment
of Act
No. 38,
1924.

- 10 (a) (i) by omitting from section three the definition Sec. 3.
of "Disease" and by inserting in lieu thereof (Interpre-
the following definition :— tation.)

15 "Disease" means any organism of the vege-
table kingdom which causes an
abnormal or unhealthy condition in
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a disease.

- 20 (ii) by omitting from the same section the defini-
tion of "Pest" and by inserting in lieu thereof
the following definition :—

25 "Pest" means any organism of the animal
kingdom, other than the vertebrata,
which feeds upon or is injurious to
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a pest.

- 30 (iii) by omitting from the same section the defini-
tion of "Plant" and by inserting in lieu thereof
the following definition :—

"Plant" means any member of the vegetable
kingdom and includes the seed or any
part of a plant whether living or dead
and

Plant Diseases (Amendment).

and whether attached to a plant or
separate therefrom.

- (b) by inserting next after section eleven the following new section : —

New sec.
11A.

5 11A. (1) A person who is authorised by writing under the hand of the Minister to do so may exercise and perform such of the powers, authorities, duties and functions of an inspector as are specified in the authority.

Authorised persons to have certain of the powers, etc., of inspectors.

10 (2) An authority under this section—

(a) may be varied or revoked by the Minister by writing under his hand; and

(b) may be limited in its operation to a part of the State specified in the authority.

15 (c) by omitting from subsection (1B) of section thirteen the word “appointment” and by inserting in lieu thereof the word “authority”;

Sec. 13.
(Power to stop, enter and search.)

20 (d) by omitting from section 25B the word “appointment” wherever occurring and by inserting in lieu thereof the word “authority”;

Sec. 25B.
(Personation of inspector.)

(e) by omitting subsection six of section twenty-six and by inserting in lieu thereof the following subsection : —

Sec. 26.
(Offences.)

25 (6) In any proceeding against any person for an offence against this Act or the regulations a certificate purporting to be signed by the Director-General of Agriculture stating that a person has been appointed or authorised to act as an inspector under this Act and during any period specified in the certificate held office or was authorised to act as such an inspector shall be prima facie evidence of the facts stated therein.

(f)

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- (f) (i) by omitting from paragraph (aii) of sub- Sec. 28.
section one of section twenty-eight the word (Regu-
"appointment" and by inserting in lieu thereof lations.)
the word "authority";
- 5 (ii) by inserting next after paragraph (d) of
the same subsection the following new
paragraph :—
- 10 (di) the restriction or prohibition of the
packing for sale or sale of coverings
that are not branded or labelled as
prescribed or fruit or vegetables
that are not graded or packed as
prescribed.
- (2) Any written evidence of appointment of an Savings.
15 inspector in force immediately before the commencement of
this Act shall be deemed on and after that commencement to
be written evidence of authority of that inspector under the
Plant Diseases Act, 1924, as amended by this Act.
- (3) A regulation made before the commencement of Avoidance
20 this Act purporting to have been made under the Plant of certain
Diseases Act, 1924, as in force at the time of the making of doubts.
the regulation shall be deemed to have been validly made
under that Act as so in force if it could have been made under
the Plant Diseases Act, 1924, as amended by this Act, had
25 that Act, as so amended, been in force at that time.
4. The Plant Diseases Act, 1924, is further amended— Further
amendment
of Act No.
38, 1924.
- (a) by omitting paragraph (e) of subsection one of Sec. 5.
section five; (Power to
appoint
places of
entry and
quarantine.)
- 30 (b) by inserting next after the same section the New sec.
following new section :— 5A.

Plant Diseases (Amendment).

5A. (1) For the purpose of treating a disease or pest or preventing the spread thereof, or for the purpose of eradicating or lessening the risk of disease or pest or to prevent any disease or pest attacking or being harboured, the Minister may, by order published in the Gazette, require—

Treatment
and
eradication
of diseases.

(a) an owner or occupier of land or premises;
or

(b) a person in possession of fruit or plants,
to do or permit such acts, and to take such measures, including the uprooting and destruction of plants or fruit and the destruction of packages, as are specified in the order.

(2) An order published under subsection one of this section—

(a) may be limited in its application to a specified part of the State;

(b) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted at a time or times specified in the order;

(c) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted in relation to any thing including plants, fruit and coverings; and

(d) shall be deemed to be a regulation for the purposes of section forty-one of the Interpretation Act, 1897.

(c) by inserting in subsection one of section nine after the words "contrary to" where secondly occurring the words "an order or";

Sec. 9.
(Seizure of
plants.)

Plant Diseases (Amendment).

- (d) (i) by inserting in subsection one of section thirteen after the word "notification" the word Sec. 13.
" , order"; (Power to stop, enter and search.)
- 5 (ii) by inserting in subsection (1A) of the same section after the word "notification," the word "order,";
- (iii) by inserting in subsection (1B) of the same section after the word "notification" the word " , order";
- 10 (e) (i) by inserting in paragraph (b) of section sixteen after the word "given" the words "or Sec. 16.
order published"; (Recovery of expenses.)
- (ii) by inserting in the same section after the word "direction," where secondly occurring the word "order";
- 15 (f) (i) by inserting in paragraph (c) of subsection one of section twenty-six after the word Sec. 26.
"notification" the word " , order"; (Offences.)
- 20 (ii) by inserting in paragraph (d) of the same subsection after the word "notification" the word " , order";
- (iii) by inserting in subsection five of the same section after the word "proclamation" the word " , order";
- 25 (iv) by inserting next after subsection six of the same section the following new subsection :—
- 30 (7) In any proceeding against any person for an offence against this Act any printed paper purporting to be an order by the Minister published under this Act and to be printed by the Government Printer shall be evidence that

an

Plant Diseases (Amendment).

an order by the Minister, in the words printed in that paper, was duly published under this Act.

- 5 (g) by omitting paragraph (a) of subsection one of section twenty-eight. Sec. 28.
(Regulations.)

5. (1) The Horticultural Stock and Nurseries Act, 1969, is amended— Amendment
of Act No.
3, 1969.

- 10 (a) (i) by omitting from section three the definition of "disease" and by inserting in lieu thereof the following definition :— Sec. 3.
(Interpretation.)

"disease" has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- 15 (ii) by omitting from the same section the definition of "pest" and by inserting in lieu thereof the following definition :—

"pest" has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- 20 (b) (i) by inserting in paragraph (a) of section twenty-two after the word "appointed" the words "or authorised to act as"; Sec. 22.
(Evidence.)

- (ii) by inserting in the same paragraph after the word "office" the words "or was authorised to act".

(2) The amendments made by subsection one of this section shall commence on the day on which the Horticultural Stock and Nurseries Act, 1969, commences.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[10c]

and in the case of the defendant in the case of the
in that regard was only permitted under the
Act.

2. The defendant's argument that the defendant's
action was not a violation of the Act is
unavailing.

3. (1) The defendant's motion for summary judgment
is denied.

(a) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(b) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(c) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(d) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(e) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(f) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

(g) (i) The defendant's motion for summary judgment
is denied. The defendant's motion for summary judgment
is denied.

No. , 1971.

A BILL

To make further provisions with respect to the branding or labelling of coverings containing fruit or plants and the grading and packing of fruit or vegetables; to simplify the procedure for prescribing the treatment of diseases of plants; to enable the Minister to authorise persons to act as inspectors; to avoid certain doubts; for these and other purposes to amend the Plant Diseases Act, 1924, and the Horticultural Stock and Nurseries Act, 1969; and for purposes connected therewith.

[MR CRAWFORD—19 August, 1971.]

BE

Plant Diseases (Amendment).

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Plant Diseases (Amendment) Act, 1971".

Short title
and com-
mencement.

(2) Sections two and four of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

2. The Plant Diseases Act, 1924, is amended—

Amendment
of Act No.
38, 1924.

(a) by inserting next after section eighteen the following new section :—

New sec.
18A.

18A. (1) In this section, a reference to a covering includes a reference to any fruit or plant contained in the covering.

Detention
of notices.

(2) This section applies to—

- (a) a covering that is required by the regulations to be branded or labelled as prescribed and is not so branded or labelled;
- (b) a fruit that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed;
- (c) a vegetable that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed.

(3) Where a person is in possession or control of coverings or fruit or vegetables to which this section applies, an inspector may give to that person

Plant Diseases (Amendment).

person a notice that is in the prescribed form and requires that person, except in so far as the notice is cancelled as provided by subsection nine of this section—

- 5 (a) to keep at a specified place;
- (b) to refrain from selling, or otherwise dealing with or disposing of; and
- (c) to refrain from permitting or suffering any other person to sell or otherwise deal with
- 10 or dispose of,

those coverings, that fruit or those vegetables.

- (4) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a notice given under subsection three of this section relates.
- 15

(5) Where a person has been given a notice under subsection three of this section an inspector may—

- (a) at the request of that person; and
- 20 (b) on payment of the prescribed fee in the prescribed manner,

change the brands or labels on a covering to which the notice relates to the extent necessary to ensure that the covering is branded or labelled as prescribed.

25

- (6) Where a person has been given a notice under subsection three of this section and an inspector has not exercised the powers conferred on him by subsection five of this section, that person shall—
- 30

- (a) regrade or repack the fruit or vegetables to which the notice relates to the extent necessary to ensure that that fruit is or those vegetables are, graded or packed as prescribed

Plant Diseases (Amendment).

prescribed and to ensure that the covering containing that fruit or those vegetables is branded or labelled as prescribed; or

- 5 (b) deal with, or dispose of, the fruit or vegetables to which the notice relates in a manner approved or directed in writing by an inspector.

10 (7) A person shall be deemed to have complied with subsection six of this section if that which he would be required to do in order to comply therewith is done on his behalf or at his direction.

15 (8) For the purposes of section nine of this Act, a person who is required to comply with subsection six of this section in respect of a covering or fruit or vegetables and fails to do so shall be deemed to have dealt with, or disposed of, that covering or fruit or those vegetables contrary to the direction of an inspector.

20 (9) Where a notice has been given under subsection three of this section and an inspector—

- 25 (a) has exercised the powers conferred on him by subsection five of this section in respect of a covering to which the notice relates; or

(b) is satisfied—

30 (i) that subsection six of this section has been complied with in respect of a covering or fruit or vegetables, to which the notice relates; and

(ii)

Plant Diseases (Amendment).

- (ii) that the prescribed fee has been paid
in the prescribed manner,

an inspector shall give to the person to whom the
notice was given a cancellation of the notice in
the prescribed form in so far as the notice relates
to that covering or fruit or those vegetables.

(10) An inspector may identify in the
prescribed manner the coverings or fruit or
vegetables to which a cancellation given under
subsection nine of this section relates.

(11) In any prosecution for an offence
against this Act in respect of coverings, fruit or
vegetables, proof that a notice was given under
subsection three of this section in relation to the
coverings, fruit or vegetables shall be prima facie
evidence that the notice had not, at the time of the
alleged offence, been cancelled in so far as it related
to the coverings, fruit or vegetables.

(12) Where a prescribed fee for the
purposes of this section is paid by a person who
is not the owner of the coverings or fruit or
vegetables in respect of which the payment is made,
an amount equal to the amount of that fee—

(a) may be recovered from the owner by that
person in any court of competent jurisdic-
tion as a debt due and owing by the owner;
and

(b) shall, if that person is a licensed farm
produce agent under the Farm Produce
Agents Act, 1926, be deemed to be an out-
of-pocket expense properly payable by the
principal for the purposes of the Farm
Produce Agents Act, 1926,

to the extent to which it has not been waived or
remitted in accordance with subsection thirteen of
this section.

(13)

Plant Diseases (Amendment).

(13) The Minister may waive or remit the whole or any part of a prescribed fee for the purposes of this section.

- 5 (b) by inserting at the end of paragraph (f) of sub- Sec. 28.
section one of section twenty-eight the following (Regu-
new subparagraph :— lations.)

(iv) for the purposes of section 18A of this Act.

3. (1) The Plant Diseases Act, 1924, is further Further
amended— amendment
of Act
No. 38,
1924.

- 10 (a) (i) by omitting from section three the definition Sec. 3.
of "Disease" and by inserting in lieu thereof (Interpre-
the following definition :— tation.)

15 "Disease" means any organism of the vege-
table kingdom which causes an
abnormal or unhealthy condition in
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a disease.

- 20 (ii) by omitting from the same section the defini-
tion of "Pest" and by inserting in lieu thereof
the following definition :—

25 "Pest" means any organism of the animal
kingdom, other than the vertebrata,
which feeds upon or is injurious to
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a pest.

- 30 (iii) by omitting from the same section the defini-
tion of "Plant" and by inserting in lieu thereof
the following definition :—

"Plant" means any member of the vegetable
kingdom and includes the seed or any
part of a plant whether living or dead
and

Plant Diseases (Amendment).

and whether attached to a plant or
separate therefrom.

- (b) by inserting next after section eleven the following
new section : —

New sec.
11A.

5 11A. (1) A person who is authorised by writing
under the hand of the Minister to do so may exer-
cise and perform such of the powers, authorities,
duties and functions of an inspector as are specified
in the authority.

Authorised
persons
to have
certain
of the
powers,
etc., of
inspectors.

10 (2) An authority under this section—

(a) may be varied or revoked by the Minister
by writing under his hand; and

(b) may be limited in its operation to a part
of the State specified in the authority.

15 (c) by omitting from subsection (1B) of section thirteen
the word “appointment” and by inserting in lieu
thereof the word “authority”;

Sec. 13.
(Power
to stop,
enter and
search.)

20 (d) by omitting from section 25B the word “appoint-
ment” wherever occurring and by inserting in lieu
thereof the word “authority”;

Sec. 25B.
(Personation
of
inspector.)

(e) by omitting subsection six of section twenty-six and
by inserting in lieu thereof the following sub-
section : —

Sec. 26.
(Offences.)

25 (6) In any proceeding against any person for
an offence against this Act or the regulations a
certificate purporting to be signed by the Director-
General of Agriculture stating that a person has
been appointed or authorised to act as an inspector
under this Act and during any period specified in
30 the certificate held office or was authorised to act
as such an inspector shall be prima facie evidence
of the facts stated therein.

(f)

Plant Diseases (Amendment).

- (f) (i) by omitting from paragraph (aii) of sub- Sec. 28.
section one of section twenty-eight the word (Regu-
"appointment" and by inserting in lieu thereof lations.)
the word "authority";
- 5 (ii) by inserting next after paragraph (d) of
the same subsection the following new
paragraph :—
- 10 (di) the restriction or prohibition of the
packing for sale or sale of coverings
that are not branded or labelled as
prescribed or fruit or vegetables
that are not graded or packed as
prescribed.
- (2) Any written evidence of appointment of an Savings.
15 inspector in force immediately before the commencement of
this Act shall be deemed on and after that commencement to
be written evidence of authority of that inspector under the
Plant Diseases Act, 1924, as amended by this Act.
- (3) A regulation made before the commencement of Avoidance
20 this Act purporting to have been made under the Plant of certain
Diseases Act, 1924, as in force at the time of the making of doubts.
the regulation shall be deemed to have been validly made
under that Act as so in force if it could have been made under
the Plant Diseases Act, 1924, as amended by this Act, had
25 that Act, as so amended, been in force at that time.
4. The Plant Diseases Act, 1924, is further amended— Further
amendment
of Act No.
38, 1924.
- (a) by omitting paragraph (e) of subsection one of Sec. 5.
section five; (Power to
appoint
places of
entry and
quarantine.)
- 30 (b) by inserting next after the same section the New sec.
following new section :— 5A.

5A.

Plant Diseases (Amendment).

5 5A. (1) For the purpose of treating a disease or pest or preventing the spread thereof, or for the purpose of eradicating or lessening the risk of disease or pest or to prevent any disease or pest attacking or being harboured, the Minister may, by order published in the Gazette, require—

(a) an owner or occupier of land or premises;
or

10 (b) a person in possession of fruit or plants,
to do or permit such acts, and to take such measures, including the uprooting and destruction of plants or fruit and the destruction of packages, as are specified in the order.

15 (2) An order published under subsection one of this section—

(a) may be limited in its application to a specified part of the State;

20 (b) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted at a time or times specified in the order;

25 (c) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted in relation to any thing including plants, fruit and coverings; and

30 (d) shall be deemed to be a regulation for the purposes of section forty-one of the Interpretation Act, 1897.

(c) by inserting in subsection one of section nine after the words "contrary to" where secondly occurring the words "an order or";

Sec. 9.
(Seizure of plants.)

Plant Diseases (Amendment).

- (d) (i) by inserting in subsection one of section thirteen after the word "notification" the word Sec. 13.
", order"; (Power to stop, enter and search.)
- 5 (ii) by inserting in subsection (1A) of the same section after the word "notification," the word "order,";
- (iii) by inserting in subsection (1B) of the same section after the word "notification" the word ", order";
- 10 (e) (i) by inserting in paragraph (b) of section sixteen after the word "given" the words "or order published"; Sec. 16.
(Recovery of expenses.)
- (ii) by inserting in the same section after the word "direction," where secondly occurring the word "order";
- 15 (f) (i) by inserting in paragraph (c) of subsection one of section twenty-six after the word Sec. 26.
"notification" the word ", order"; (Offences.)
- 20 (ii) by inserting in paragraph (d) of the same subsection after the word "notification" the word ", order";
- (iii) by inserting in subsection five of the same section after the word "proclamation" the word ", order";
- 25 (iv) by inserting next after subsection six of the same section the following new subsection :—
- (7) In any proceeding against any person for an offence against this Act any printed paper purporting to be an order by the Minister published under this Act and to be printed by the Government Printer shall be evidence that
- 30

an

Plant Diseases (Amendment).

an order by the Minister, in the words printed in that paper, was duly published under this Act.

- 5 (g) by omitting paragraph (a) of subsection one of section twenty-eight. Sec. 28. (Regulations.)

5. (1) The Horticultural Stock and Nurseries Act, 1969, Amendment of Act No. 3, 1969.
is amended—

- 10 (a) (i) by omitting from section three the definition of “disease” and by inserting in lieu thereof the following definition :— Sec. 3. (Interpretation.)

“disease” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- 15 (ii) by omitting from the same section the definition of “pest” and by inserting in lieu thereof the following definition :—

“pest” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- 20 (b) (i) by inserting in paragraph (a) of section twenty-two after the word “appointed” the words “or authorised to act as”; Sec. 22. (Evidence.)

- (ii) by inserting in the same paragraph after the word “office” the words “or was authorised to act”.

25 (2) The amendments made by subsection one of this section shall commence on the day on which the Horticultural Stock and Nurseries Act, 1969, commences.

BY AUTHORITY

V. C. N. Blight, Government Printer, New South Wales—1971

[10c]

Act No. 1934

and order by the standard in the word printed
in that paper, and the copy of order this
Act.

1. By inserting paragraph (a) of section 1 of
Act No. 1934.

2. (1) The standard shall be the Act No. 1934
as amended.

(2) By inserting in section 1 of the Act No. 1934
the following definition:

"standard" shall mean a standard which is
in the Act No. 1934.

(3) By inserting in the same section the
definition of "standard" and by inserting in the
same section the following definition:

"standard" shall mean the standard which is
in the Act No. 1934.

(4) By inserting in section 1 of the Act No. 1934
the following definition:

(5) By inserting in the same paragraph after the
word "standard" the words "and the standard to
be inserted in the same paragraph after the
word 'standard' the words 'and the standard to
be inserted in the same paragraph after the
word 'standard'.

(6) The standard shall be the standard which is
in the Act No. 1934.

PLANT DISEASES (AMENDMENT) BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to authorise an inspector to issue a prescribed notice and thereby restrict the sale or disposal of coverings or fruit or vegetables which are not branded, labelled, graded or packed in accordance with the Plant Diseases Act, 1924, or the regulations;
- (b) to provide for the cancellation of such a restriction when an inspector is satisfied that the coverings or fruit or vegetables to which the restriction relates comply with the Act and the regulations;
- (c) to empower the Minister to prescribe, by order published in the Gazette, the treatment of any disease or pest;
- (d) to enable authorised persons to act as inspectors for the purposes of the Act;
- (e) to authorise regulations to be made restricting or prohibiting the sale or packing for sale of coverings or fruit or vegetables not branded, labelled, graded or packed in accordance with the Act or the regulations;
- (f) to avoid any doubts with respect to the validity of regulations restricting the sale or packing for sale of coverings or fruit or vegetables and made before the commencement of the Act;
- (g) to make provisions consequential upon or ancillary to the foregoing.

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PROOF

No. , 1971.

A BILL

To make further provisions with respect to the branding or labelling of coverings containing fruit or plants and the grading and packing of fruit or vegetables; to simplify the procedure for prescribing the treatment of diseases of plants; to enable the Minister to authorise persons to act as inspectors; to avoid certain doubts; for these and other purposes to amend the Plant Diseases Act, 1924, and the Horticultural Stock and Nurseries Act, 1969; and for purposes connected therewith.

[MR CRAWFORD—19 August, 1971.]

BE

Plant Diseases (Amendment).

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Plant Diseases
(Amendment) Act, 1971".

Short title
and com-
mencement.

(2) Sections two and four of this Act shall commence
upon such day or days as may be appointed by the Governor
in respect thereof and notified by proclamation published in
the Gazette.

2. The Plant Diseases Act, 1924, is amended—

Amendment
of Act No.
38, 1924.

(a) by inserting next after section eighteen the follow-
ing new section :—

New sec.
18A.

18A. (1) In this section, a reference to a
covering includes a reference to any fruit or plant
contained in the covering.

Detention
notices.

(2) This section applies to—

(a) a covering that is required by the regulations
to be branded or labelled as prescribed and
is not so branded or labelled;

(b) a fruit that is required by the Act or the
regulations to be graded or packed as pre-
scribed and is not so graded or packed;
and

(c) a vegetable that is required by the Act or
the regulations to be graded or packed as
prescribed and is not so graded or packed.

(3) Where a person is in possession or
control of coverings or fruit or vegetables to which
this section applies, an inspector may give to that
person

Plant Diseases (Amendment).

person a notice that is in the prescribed form and requires that person, except in so far as the notice is cancelled as provided by subsection nine of this section—

- 5 (a) to keep at a specified place;
- (b) to refrain from selling, or otherwise dealing with or disposing of; and
- (c) to refrain from permitting or suffering any other person to sell or otherwise deal with
- 10 or dispose of,

those coverings, that fruit or those vegetables.

(4) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a notice given under subsection three of this section relates.

(5) Where a person has been given a notice under subsection three of this section an inspector may—

- (a) at the request of that person; and
- 20 (b) on payment of the prescribed fee in the prescribed manner,

change the brands or labels on a covering to which the notice relates to the extent necessary to ensure that the covering is branded or labelled as prescribed.

(6) Where a person has been given a notice under subsection three of this section and an inspector has not exercised the powers conferred on him by subsection five of this section, that person shall—

- 30 (a) regrade or repack the fruit or vegetables to which the notice relates to the extent necessary to ensure that that fruit is or those vegetables are, graded or packed as prescribed

Plant Diseases (Amendment).

prescribed and to ensure that the covering containing that fruit or those vegetables is branded or labelled as prescribed; or

- 5 (b) deal with, or dispose of, the fruit or vegetables to which the notice relates in a manner approved or directed in writing by an inspector.

10 (7) A person shall be deemed to have complied with subsection six of this section if that which he would be required to do in order to comply therewith is done on his behalf or at his direction.

15 (8) For the purposes of section nine of this Act, a person who is required to comply with subsection six of this section in respect of a covering or fruit or vegetables and fails to do so shall be deemed to have dealt with, or disposed of, that covering or fruit or those vegetables contrary to the direction of an inspector.

20 (9) Where a notice has been given under subsection three of this section and an inspector—

- 25 (a) has exercised the powers conferred on him by subsection five of this section in respect of a covering to which the notice relates; or

(b) is satisfied—

30 (i) that subsection six of this section has been complied with in respect of a covering or fruit or vegetables, to which the notice relates; and

(ii)

Plant Diseases (Amendment).

- (ii) that the prescribed fee has been paid
in the prescribed manner,

an inspector shall give to the person to whom the
notice was given a cancellation of the notice in
the prescribed form in so far as the notice relates
to that covering or fruit or those vegetables.

(10) An inspector may identify in the
prescribed manner the coverings or fruit or
vegetables to which a cancellation given under
subsection nine of this section relates.

(11) In any prosecution for an offence
against this Act in respect of coverings, fruit or
vegetables, proof that a notice was given under
subsection three of this section in relation to the
coverings, fruit or vegetables shall be prima facie
evidence that the notice had not, at the time of the
alleged offence, been cancelled in so far as it related
to the coverings, fruit or vegetables.

(12) Where a prescribed fee for the
purposes of this section is paid by a person who
is not the owner of the coverings or fruit or
vegetables in respect of which the payment is made,
an amount equal to the amount of that fee—

(a) may be recovered from the owner by that
person in any court of competent jurisdic-
tion as a debt due and owing by the owner;
and

(b) shall, if that person is a licensed farm
produce agent under the Farm Produce
Agents Act, 1926, be deemed to be an out-
of-pocket expense properly payable by the
principal for the purposes of the Farm
Produce Agents Act, 1926,

to the extent to which it has not been waived or
remitted in accordance with subsection thirteen of
this section.

(13)

Plant Diseases (Amendment).

(13) The Minister may waive or remit the whole or any part of a prescribed fee for the purposes of this section.

- 5 (b) by inserting at the end of paragraph (f) of sub- Sec. 28.
section one of section twenty-eight the following (Regu-
new subparagraph :— lations.)

(iv) for the purposes of section 18A of this Act.

3. (1) The Plant Diseases Act, 1924, is further Further
amended— amendment
of Act
No. 38,
1924.

- 10 (a) (i) by omitting from section three the definition Sec. 3.
of "Disease" and by inserting in lieu thereof (Interpre-
the following definition :— tation.)

15 "Disease" means any organism of the vege-
table kingdom which causes an
abnormal or unhealthy condition in
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a disease.

- 20 (ii) by omitting from the same section the defini-
tion of "Pest" and by inserting in lieu thereof
the following definition :—

25 "Pest" means any organism of the animal
kingdom, other than the vertebrata,
which feeds upon or is injurious to
plants and includes anything which the
Governor, by proclamation published
in the Gazette, declares to be a pest.

- 30 (iii) by omitting from the same section the defini-
tion of "Plant" and by inserting in lieu thereof
the following definition :—

"Plant" means any member of the vegetable
kingdom and includes the seed or any
part of a plant whether living or dead
and

Plant Diseases (Amendment).

and whether attached to a plant or
separate therefrom.

- (b) by inserting next after section eleven the following
new section : —

New sec.
11A.

5 11A. (1) A person who is authorised by writing
under the hand of the Minister to do so may exer-
cise and perform such of the powers, authorities,
duties and functions of an inspector as are specified
in the authority.

Authorised
persons
to have
certain
of the
powers,
etc., of
inspectors.

10 (2) An authority under this section—

(a) may be varied or revoked by the Minister
by writing under his hand; and

(b) may be limited in its operation to a part
of the State specified in the authority.

15 (c) by omitting from subsection (1B) of section thirteen
the word "appointment" and by inserting in lieu
thereof the word "authority";

Sec. 13.
(Power
to stop,
enter and
search.)

20 (d) by omitting from section 25B the word "appoint-
ment" wherever occurring and by inserting in lieu
thereof the word "authority";

Sec. 25B.
(Personation
of
inspector.)

(e) by omitting subsection six of section twenty-six and
by inserting in lieu thereof the following sub-
section : —

Sec. 26.
(Offences.)

25 (6) In any proceeding against any person for
an offence against this Act or the regulations a
certificate purporting to be signed by the Director-
General of Agriculture stating that a person has
been appointed or authorised to act as an inspector
under this Act and during any period specified in
30 the certificate held office or was authorised to act
as such an inspector shall be prima facie evidence
of the facts stated therein.

(f)

Plant Diseases (Amendment).

- (f) (i) by omitting from paragraph (aii) of sub- Sec. 28.
section one of section twenty-eight the word (Regu-
"appointment" and by inserting in lieu thereof lations.)
the word "authority";
- 5 (ii) by inserting next after paragraph (d) of
the same subsection the following new
paragraph :—
- 10 (di) the restriction or prohibition of the
packing for sale or sale of coverings
that are not branded or labelled as
prescribed or fruit or vegetables
that are not graded or packed as
prescribed.
- (2) Any written evidence of appointment of an Savings.
15 inspector in force immediately before the commencement of
this Act shall be deemed on and after that commencement to
be written evidence of authority of that inspector under the
Plant Diseases Act, 1924, as amended by this Act.
- (3) A regulation made before the commencement of Avoidance
20 this Act purporting to have been made under the Plant of certain
Diseases Act, 1924, as in force at the time of the making of doubts.
the regulation shall be deemed to have been validly made
under that Act as so in force if it could have been made under
the Plant Diseases Act, 1924, as amended by this Act, had
25 that Act, as so amended, been in force at that time.
4. The Plant Diseases Act, 1924, is further amended— Further
amendment
of Act No.
38, 1924.
- (a) by omitting paragraph (e) of subsection one of Sec. 5.
section five; (Power to
appoint
places of
entry and
quarantine.)
- 30 (b) by inserting next after the same section the New sec.
following new section :— 5A.

5A.

Plant Diseases (Amendment).

- 5A. (1) For the purpose of treating a disease or pest or preventing the spread thereof, or for the purpose of eradicating or lessening the risk of disease or pest or to prevent any disease or pest attacking or being harboured, the Minister may, by order published in the Gazette, require—
- 5
- (a) an owner or occupier of land or premises;
or
- (b) a person in possession of fruit or plants,
- 10 to do or permit such acts, and to take such measures, including the uprooting and destruction of plants or fruit and the destruction of packages, as are specified in the order.
- (2) An order published under subsection one of this section—
- 15
- (a) may be limited in its application to a specified part of the State;
- (b) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted at a time or times specified in the order;
- 20
- (c) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted in relation to any thing including plants, fruit and coverings; and
- 25
- (d) shall be deemed to be a regulation for the purposes of section forty-one of the Interpretation Act, 1897.
- 30
- (c) by inserting in subsection one of section nine after the words "contrary to" where secondly occurring the words "an order or";
- Sec. 9.
(Seizure of plants.)

Plant Diseases (Amendment).

- (d) (i) by inserting in subsection one of section thirteen after the word "notification" the word ", order";
- (ii) by inserting in subsection (1A) of the same section after the word "notification," the word "order,";
- (iii) by inserting in subsection (1B) of the same section after the word "notification" the word ", order";
- (e) (i) by inserting in paragraph (b) of section sixteen after the word "given" the words "or order published";
- (ii) by inserting in the same section after the word "direction," where secondly occurring the word "order";
- (f) (i) by inserting in paragraph (c) of subsection one of section twenty-six after the word "notification" the word ", order";
- (ii) by inserting in paragraph (d) of the same subsection after the word "notification" the word ", order";
- (iii) by inserting in subsection five of the same section after the word "proclamation" the word ", order";
- (iv) by inserting next after subsection six of the same section the following new subsection :—
- (7) In any proceeding against any person for an offence against this Act any printed paper purporting to be an order by the Minister published under this Act and to be printed by the Government Printer shall be evidence that

an

Plant Diseases (Amendment).

an order by the Minister, in the words printed in that paper, was duly published under this Act.

- 5 (g) by omitting paragraph (a) of subsection one of section twenty-eight. Sec. 28.
(Regulations.)

5. (1) The Horticultural Stock and Nurseries Act, 1969, is amended— Amendment
of Act No.
3, 1969.

- 10 (a) (i) by omitting from section three the definition of "disease" and by inserting in lieu thereof the following definition :— Sec. 3.
(Interpretation.)

"disease" has the meaning ascribed thereto in the Plant Diseases Act, 1924 ;

- 15 (ii) by omitting from the same section the definition of "pest" and by inserting in lieu thereof the following definition :—

"pest" has the meaning ascribed thereto in the Plant Diseases Act, 1924 ;

- 20 (b) (i) by inserting in paragraph (a) of section twenty-two after the word "appointed" the words "or authorised to act as"; Sec. 22.
(Evidence.)

- (ii) by inserting in the same paragraph after the word "office" the words "or was authorised to act".

25 (2) The amendments made by subsection one of this section shall commence on the day on which the Horticultural Stock and Nurseries Act, 1969, commences.

BY AUTHORITY

V. C. N. Blight, Government Printer, New South Wales—1971

THE HONORABLE MEMBERS

in order by the Minister in the words printed in that paper was duly published under this Act.

the Minister in the words printed in that paper was duly published under this Act.

5. The Honorable Members and Ministers of the Government of the Province of Ontario.

(a) by inserting from section 10 of the definition of "person" and by inserting in that section the following definition:—

"person" means the meaning ascribed thereto in the First Division Act, 1934;

(b) by inserting from the same section the definition of "person" and by inserting in that section the following definition:—

"person" has the meaning ascribed thereto in the First Division Act, 1934;

(c) by inserting in paragraph (a) of section 10 the words "and after the word 'person' the words 'or authorized to act as'";

(d) by inserting in the same paragraph after the words "or authorized to act as" the words "or authorized to act as";

(e) The Minister in the words printed in that paper was duly published under this Act.

THE HONORABLE MEMBERS

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1971.

An Act to make further provisions with respect to the branding or labelling of coverings containing fruit or plants and the grading and packing of fruit or vegetables; to simplify the procedure for prescribing the treatment of diseases of plants; to enable the Minister to authorise persons to act as inspectors; to avoid certain doubts; for these and other purposes to amend the Plant Diseases Act, 1924, and the Horticultural Stock and Nurseries Act, 1969; and for purposes connected therewith.
[Assented to, 27th September, 1971.]

BE

Plant Diseases (Amendment).

BE it enacted by the Queen'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 :—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Plant Diseases (Amendment) Act, 1971".

(2) Sections two and four of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

Amendment
of Act No.
38, 1924.

2. The Plant Diseases Act, 1924, is amended—

New sec.
18A.

(a) by inserting next after section eighteen the following new section :—

Detention
notices.

***** 18A. (1) In this section, a reference to a covering includes a reference to any fruit or plant contained in the covering.

(2) This section applies to—

- (a) a covering that is required by the regulations to be branded or labelled as prescribed and is not so branded or labelled;
- (b) a fruit that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed; and
- (c) a vegetable that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed.

(3) Where a person is in possession or control of coverings or fruit or vegetables to which this section applies, an inspector may give to that person

Plant Diseases (Amendment).

person a notice that is in the prescribed form and requires that person, except in so far as the notice is cancelled as provided by subsection nine of this section—

- (a) to keep at a specified place;
- (b) to refrain from selling, or otherwise dealing with or disposing of; and
- (c) to refrain from permitting or suffering any other person to sell or otherwise deal with or dispose of,

those coverings, that fruit or those vegetables.

(4) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a notice given under subsection three of this section relates.

(5) Where a person has been given a notice under subsection three of this section an inspector may—

- (a) at the request of that person; and
- (b) on payment of the prescribed fee in the prescribed manner,

change the brands or labels on a covering to which the notice relates to the extent necessary to ensure that the covering is branded or labelled as prescribed.

(6) Where a person has been given a notice under subsection three of this section and an inspector has not exercised the powers conferred on him by subsection five of this section, that person shall—

- (a) regrade or repack the fruit or vegetables to which the notice relates to the extent necessary to ensure that that fruit is or those vegetables are, graded or packed as prescribed

Plant Diseases (Amendment).

prescribed and to ensure that the covering containing that fruit or those vegetables is branded or labelled as prescribed; or

- (b) deal with, or dispose of, the fruit or vegetables to which the notice relates in a manner approved or directed in writing by an inspector.

(7) A person shall be deemed to have complied with subsection six of this section if that which he would be required to do in order to comply therewith is done on his behalf or at his direction.

(8) For the purposes of section nine of this Act, a person who is required to comply with subsection six of this section in respect of a covering or fruit or vegetables and fails to do so shall be deemed to have dealt with, or disposed of, that covering or fruit or those vegetables contrary to the direction of an inspector.

(9) Where a notice has been given under subsection three of this section and an inspector—

- (a) has exercised the powers conferred on him by subsection five of this section in respect of a covering to which the notice relates; or

(b) is satisfied—

- (i) that subsection six of this section has been complied with in respect of a covering or fruit or vegetables, to which the notice relates; and

(ii)

Plant Diseases (Amendment).

- (ii) that the prescribed fee has been paid in the prescribed manner,

an inspector shall give to the person to whom the notice was given a cancellation of the notice in the prescribed form in so far as the notice relates to that covering or fruit or those vegetables.

(10) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a cancellation given under subsection nine of this section relates.

(11) In any prosecution for an offence against this Act in respect of coverings, fruit or vegetables, proof that a notice was given under subsection three of this section in relation to the coverings, fruit or vegetables shall be prima facie evidence that the notice had not, at the time of the alleged offence, been cancelled in so far as it related to the coverings, fruit or vegetables.

(12) Where a prescribed fee for the purposes of this section is paid by a person who is not the owner of the coverings or fruit or vegetables in respect of which the payment is made, an amount equal to the amount of that fee—

- (a) may be recovered from the owner by that person in any court of competent jurisdiction as a debt due and owing by the owner; and
- (b) shall, if that person is a licensed farm produce agent under the Farm Produce Agents Act, 1926, be deemed to be an out-of-pocket expense properly payable by the principal for the purposes of the Farm Produce Agents Act, 1926,

to the extent to which it has not been waived or remitted in accordance with subsection thirteen of this section.

(13)

Plant Diseases (Amendment).

(13) The Minister may waive or remit the whole or any part of a prescribed fee for the purposes of this section.

Sec. 28.
(Regulations.)

(b) by inserting at the end of paragraph (f) of subsection one of section twenty-eight the following new subparagraph :—

(iv) for the purposes of section 18A of this Act.

Further amendment of Act No. 38, 1924.

3. (1) The Plant Diseases Act, 1924, is further amended—

Sec. 3.
(Interpretation.)

(a) (i) by omitting from section three the definition of "Disease" and by inserting in lieu thereof the following definition :—

"Disease" means any organism of the vegetable kingdom which causes an abnormal or unhealthy condition in plants and includes anything which the Governor, by proclamation published in the Gazette, declares to be a disease.

(ii) by omitting from the same section the definition of "Pest" and by inserting in lieu thereof the following definition :—

"Pest" means any organism of the animal kingdom, other than the vertebrata, which feeds upon or is injurious to plants and includes anything which the Governor, by proclamation published in the Gazette, declares to be a pest.

(iii) by omitting from the same section the definition of "Plant" and by inserting in lieu thereof the following definition :—

"Plant" means any member of the vegetable kingdom and includes the seed or any part of a plant whether living or dead and

Plant Diseases (Amendment).

and whether attached to a plant or separate therefrom.

- (b) by inserting next after section eleven the following new section : — New sec. 11A.

11A. (1) A person who is authorised by writing under the hand of the Minister to do so may exercise and perform such of the powers, authorities, duties and functions of an inspector as are specified in the authority. Authorised persons to have certain of the powers, etc., of inspectors.

(2) An authority under this section—

- (a) may be varied or revoked by the Minister by writing under his hand; and
- (b) may be limited in its operation to a part of the State specified in the authority.
- (c) by omitting from subsection (1B) of section thirteen the word “appointment” and by inserting in lieu thereof the word “authority”; Sec. 13. (Power to stop, enter and search.)
- (d) by omitting from section 25B the word “appointment” wherever occurring and by inserting in lieu thereof the word “authority”; Sec. 25B. (Personation of inspector.)
- (e) by omitting subsection six of section twenty-six and by inserting in lieu thereof the following sub-section : — Sec. 26. (Offences.)

(6) In any proceeding against any person for an offence against this Act or the regulations a certificate purporting to be signed by the Director-General of Agriculture stating that a person has been appointed or authorised to act as an inspector under this Act and during any period specified in the certificate held office or was authorised to act as such an inspector shall be prima facie evidence of the facts stated therein.

(f)

Plant Diseases (Amendment).

Sec. 28.
(Regu-
lations.)

(f) (i) by omitting from paragraph (aii) of subsection one of section twenty-eight the word "appointment" and by inserting in lieu thereof the word "authority";

(ii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—

(di) the restriction or prohibition of the packing for sale or sale of coverings that are not branded or labelled as prescribed or fruit or vegetables that are not graded or packed as prescribed.

Savings.

(2) Any written evidence of appointment of an inspector in force immediately before the commencement of this Act shall be deemed on and after that commencement to be written evidence of authority of that inspector under the Plant Diseases Act, 1924, as amended by this Act.

Avoidance
of certain
doubts.

(3) A regulation made before the commencement of this Act purporting to have been made under the Plant Diseases Act, 1924, as in force at the time of the making of the regulation shall be deemed to have been validly made under that Act as so in force if it could have been made under the Plant Diseases Act, 1924, as amended by this Act, had that Act, as so amended, been in force at that time.

Further
amendment
of Act No.
38, 1924.

4. The Plant Diseases Act, 1924, is further amended—

Sec. 5.
(Power to
appoint
places of
entry and
quarantine.)

(a) by omitting paragraph (e) of subsection one of section five;

New sec.
5A.

(b) by inserting next after the same section the following new section :—

5A.

Plant Diseases (Amendment).

5A. (1) For the purpose of treating a disease or pest or preventing the spread thereof, or for the purpose of eradicating or lessening the risk of disease or pest or to prevent any disease or pest attacking or being harboured, the Minister may, by order published in the Gazette, require—

Treatment
and
eradication
of diseases.

(a) an owner or occupier of land or premises;

or

(b) a person in possession of fruit or plants,

to do or permit such acts, and to take such measures, including the uprooting and destruction of plants or fruit and the destruction of packages, as are specified in the order.

(2) An order published under subsection one of this section—

(a) may be limited in its application to a specified part of the State;

(b) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted at a time or times specified in the order;

(c) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted in relation to any thing including plants, fruit and coverings; and

(d) shall be deemed to be a regulation for the purposes of section forty-one of the Interpretation Act, 1897.

(c) by inserting in subsection one of section nine after the words "contrary to" where secondly occurring the words "an order or";

Sec. 9.
(Seizure of
plants.)

Plant Diseases (Amendment).

Sec. 13.
(Power to
stop, enter
and
search.)

- (d) (i) by inserting in subsection one of section thirteen after the word "notification" the word " , order";
- (ii) by inserting in subsection (1A) of the same section after the word "notification," the word "order,";
- (iii) by inserting in subsection (1B) of the same section after the word "notification" the word " , order";

Sec. 16.
(Recovery of
expenses.)

- (e) (i) by inserting in paragraph (b) of section sixteen after the word "given" the words "or order published";
- (ii) by inserting in the same section after the word "direction," where secondly occurring the word "order";

Sec. 26.
(Offences.)

- (f) (i) by inserting in paragraph (c) of subsection one of section twenty-six after the word "notification" the word " , order";
- (ii) by inserting in paragraph (d) of the same subsection after the word "notification" the word " , order";
- (iii) by inserting in subsection five of the same section after the word "proclamation" the word " , order";
- (iv) by inserting next after subsection six of the same section the following new subsection :—

(7) In any proceeding against any person for an offence against this Act any printed paper purporting to be an order by the Minister published under this Act and to be printed by the Government Printer shall be evidence that

an

Plant Diseases (Amendment).

an order by the Minister, in the words printed in that paper, was duly published under this Act.

- (g) by omitting paragraph (a) of subsection one of section twenty-eight. Sec. 28.
(Regulations.)

5. (1) The Horticultural Stock and Nurseries Act, 1969, Amendment
of Act No.
3, 1969.
is amended—

- (a) (i) by omitting from section three the definition of “disease” and by inserting in lieu thereof the following definition :— Sec. 3.
(Interpretation.)

“disease” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- (ii) by omitting from the same section the definition of “pest” and by inserting in lieu thereof the following definition :—

“pest” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- (b) (i) by inserting in paragraph (a) of section twenty-two after the word “appointed” the words “or authorised to act as”; Sec. 22.
(Evidence.)
- (ii) by inserting in the same paragraph after the word “office” the words “or was authorised to act”.

(2) The amendments made by subsection one of this section shall commence on the day on which the Horticultural Stock and Nurseries Act, 1969, commences.

BY AUTHORITY

V C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

Printed and Published by the Government of India

in order by the Minister in the words printed in that paper was duly published under the

Act

(2) by inserting paragraph (a) of subsection one of section

(1) of the

is amended

(a) (i) by omitting from section three the definition of "disease" and by inserting in lieu thereof the following definition:—

"disease" has the meaning ascribed therein in the Plant Diseases Act, 1924;

(ii) by omitting from the same section the definition of "pest" and by inserting in lieu thereof the following definition:—

"pest" has the meaning ascribed therein in the Plant Diseases Act, 1924;

(b) (i) by inserting in paragraph (a) of section twenty-two after the word "specified" the words "or authorised to act as";

(ii) by inserting in the same paragraph after the word "effect" the words "or is authorised to act as";

(3) The amendments made by sub-section one of this section shall come into force on the day on which the Horticultural Crops and Diseases Act, 1969, comes into force.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 16 September, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1971.

An Act to make further provisions with respect to the branding or labelling of coverings containing fruit or plants and the grading and packing of fruit or vegetables; to simplify the procedure for prescribing the treatment of diseases of plants; to enable the Minister to authorise persons to act as inspectors; to avoid certain doubts; for these and other purposes to amend the Plant Diseases Act, 1924, and the Horticultural Stock and Nurseries Act, 1969; and for purposes connected therewith.
[Assented to, 27th September, 1971.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Plant Diseases (Amendment).

BE it enacted by the Queen'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 :—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Plant Diseases (Amendment) Act, 1971".

(2) Sections two and four of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

Amendment
of Act No.
38, 1924.

New sec.
18A.

2. The Plant Diseases Act, 1924, is amended—

(a) by inserting next after section eighteen the following new section :—

Detention
notices.

18A. (1) In this section, a reference to a covering includes a reference to any fruit or plant contained in the covering.

(2) This section applies to—

- (a) a covering that is required by the regulations to be branded or labelled as prescribed and is not so branded or labelled;
- (b) a fruit that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed; and
- (c) a vegetable that is required by the Act or the regulations to be graded or packed as prescribed and is not so graded or packed.

(3) Where a person is in possession or control of coverings or fruit or vegetables to which this section applies, an inspector may give to that person

Plant Diseases (Amendment).

person a notice that is in the prescribed form and requires that person, except in so far as the notice is cancelled as provided by subsection nine of this section—

- (a) to keep at a specified place;
- (b) to refrain from selling, or otherwise dealing with or disposing of; and
- (c) to refrain from permitting or suffering any other person to sell or otherwise deal with or dispose of,

those coverings, that fruit or those vegetables.

(4) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a notice given under subsection three of this section relates.

(5) Where a person has been given a notice under subsection three of this section an inspector may—

- (a) at the request of that person; and
- (b) on payment of the prescribed fee in the prescribed manner,

change the brands or labels on a covering to which the notice relates to the extent necessary to ensure that the covering is branded or labelled as prescribed.

(6) Where a person has been given a notice under subsection three of this section and an inspector has not exercised the powers conferred on him by subsection five of this section, that person shall—

- (a) regrade or repack the fruit or vegetables to which the notice relates to the extent necessary to ensure that that fruit is or those vegetables are, graded or packed as prescribed

Plant Diseases (Amendment).

prescribed and to ensure that the covering containing that fruit or those vegetables is branded or labelled as prescribed; or

- (b) deal with, or dispose of, the fruit or vegetables to which the notice relates in a manner approved or directed in writing by an inspector.

(7) A person shall be deemed to have complied with subsection six of this section if that which he would be required to do in order to comply therewith is done on his behalf or at his direction.

(8) For the purposes of section nine of this Act, a person who is required to comply with subsection six of this section in respect of a covering or fruit or vegetables and fails to do so shall be deemed to have dealt with, or disposed of, that covering or fruit or those vegetables contrary to the direction of an inspector.

(9) Where a notice has been given under subsection three of this section and an inspector—

- (a) has exercised the powers conferred on him by subsection five of this section in respect of a covering to which the notice relates; or

(b) is satisfied—

- (i) that subsection six of this section has been complied with in respect of a covering or fruit or vegetables, to which the notice relates; and

(ii)

Plant Diseases (Amendment).

- (ii) that the prescribed fee has been paid in the prescribed manner,

an inspector shall give to the person to whom the notice was given a cancellation of the notice in the prescribed form in so far as the notice relates to that covering or fruit or those vegetables.

(10) An inspector may identify in the prescribed manner the coverings or fruit or vegetables to which a cancellation given under subsection nine of this section relates.

(11) In any prosecution for an offence against this Act in respect of coverings, fruit or vegetables, proof that a notice was given under subsection three of this section in relation to the coverings, fruit or vegetables shall be prima facie evidence that the notice had not, at the time of the alleged offence, been cancelled in so far as it related to the coverings, fruit or vegetables.

(12) Where a prescribed fee for the purposes of this section is paid by a person who is not the owner of the coverings or fruit or vegetables in respect of which the payment is made, an amount equal to the amount of that fee—

- (a) may be recovered from the owner by that person in any court of competent jurisdiction as a debt due and owing by the owner; and
- (b) shall, if that person is a licensed farm produce agent under the Farm Produce Agents Act, 1926, be deemed to be an out-of-pocket expense properly payable by the principal for the purposes of the Farm Produce Agents Act, 1926,

to the extent to which it has not been waived or remitted in accordance with subsection thirteen of this section.

(13)

Plant Diseases (Amendment).

(13) The Minister may waive or remit the whole or any part of a prescribed fee for the purposes of this section.

Sec. 28.
(Regu-
lations.)

- (b) by inserting at the end of paragraph (f) of subsection one of section twenty-eight the following new subparagraph : —

(iv) for the purposes of section 18A of this Act.

Further
amendment
of Act
No. 38,
1924.

3. (1) The Plant Diseases Act, 1924, is further amended—

Sec. 3.
(Interpre-
tation.)

- (a) (i) by omitting from section three the definition of "Disease" and by inserting in lieu thereof the following definition : —

"Disease" means any organism of the vegetable kingdom which causes an abnormal or unhealthy condition in plants and includes anything which the Governor, by proclamation published in the Gazette, declares to be a disease.

- (ii) by omitting from the same section the definition of "Pest" and by inserting in lieu thereof the following definition : —

"Pest" means any organism of the animal kingdom, other than the vertebrata, which feeds upon or is injurious to plants and includes anything which the Governor, by proclamation published in the Gazette, declares to be a pest.

- (iii) by omitting from the same section the definition of "Plant" and by inserting in lieu thereof the following definition : —

"Plant" means any member of the vegetable kingdom and includes the seed or any part of a plant whether living or dead
and

Plant Diseases (Amendment).

and whether attached to a plant or separate therefrom.

- (b) by inserting next after section eleven the following new section :— New sec.
11A.

11A. (1) A person who is authorised by writing under the hand of the Minister to do so may exercise and perform such of the powers, authorities, duties and functions of an inspector as are specified in the authority. Authorised persons to have certain of the powers, etc., of inspectors.

(2) An authority under this section—

- (a) may be varied or revoked by the Minister by writing under his hand; and
 - (b) may be limited in its operation to a part of the State specified in the authority.
- (c) by omitting from subsection (1B) of section thirteen the word “appointment” and by inserting in lieu thereof the word “authority”; Sec. 13.
(Power to stop, enter and search.)
- (d) by omitting from section 25B the word “appointment” wherever occurring and by inserting in lieu thereof the word “authority”; Sec. 25B.
(Personation of inspector.)
- (e) by omitting subsection six of section twenty-six and by inserting in lieu thereof the following subsection :— Sec. 26.
(Offences.)

(6) In any proceeding against any person for an offence against this Act or the regulations a certificate purporting to be signed by the Director-General of Agriculture stating that a person has been appointed or authorised to act as an inspector under this Act and during any period specified in the certificate held office or was authorised to act as such an inspector shall be prima facie evidence of the facts stated therein.

(f)

Plant Diseases (Amendment).

Sec. 28.
(Regu-
lations.)

(f) (i) by omitting from paragraph (aii) of subsection one of section twenty-eight the word "appointment" and by inserting in lieu thereof the word "authority";

(ii) by inserting next after paragraph (d) of the same subsection the following new paragraph :—

(di) the restriction or prohibition of the packing for sale or sale of coverings that are not branded or labelled as prescribed or fruit or vegetables that are not graded or packed as prescribed.

Savings.

(2) Any written evidence of appointment of an inspector in force immediately before the commencement of this Act shall be deemed on and after that commencement to be written evidence of authority of that inspector under the Plant Diseases Act, 1924, as amended by this Act.

Avoidance
of certain
doubts.

(3) A regulation made before the commencement of this Act purporting to have been made under the Plant Diseases Act, 1924, as in force at the time of the making of the regulation shall be deemed to have been validly made under that Act as so in force if it could have been made under the Plant Diseases Act, 1924, as amended by this Act, had that Act, as so amended, been in force at that time.

Further
amendment
of Act No.
38, 1924.

4. The Plant Diseases Act, 1924, is further amended—

Sec. 5.
(Power to
appoint
places of
entry and
quarantine.)

(a) by omitting paragraph (e) of subsection one of section five;

New sec.
5A.

(b) by inserting next after the same section the following new section :—

5A.

Plant Diseases (Amendment).

5A. (1) For the purpose of treating a disease or pest or preventing the spread thereof, or for the purpose of eradicating or lessening the risk of disease or pest or to prevent any disease or pest attacking or being harboured, the Minister may, by order published in the Gazette, require—

Treatment
and
eradication
of diseases.

(a) an owner or occupier of land or premises;

or

(b) a person in possession of fruit or plants,

to do or permit such acts, and to take such measures, including the uprooting and destruction of plants or fruit and the destruction of packages, as are specified in the order.

(2) An order published under subsection one of this section—

(a) may be limited in its application to a specified part of the State;

(b) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted at a time or times specified in the order;

(c) may require the measures referred to in subsection one of this section to be taken and the acts so referred to to be done or permitted in relation to any thing including plants, fruit and coverings; and

(d) shall be deemed to be a regulation for the purposes of section forty-one of the Interpretation Act, 1897.

(c) by inserting in subsection one of section nine after the words "contrary to" where secondly occurring the words "an order or";

Sec. 9.
(Seizure of
plants.)

(d)

Plant Diseases (Amendment).

Sec. 13.
(Power to
stop, enter
and
search.)

- (d) (i) by inserting in subsection one of section thirteen after the word "notification" the word ", order";
- (ii) by inserting in subsection (1A) of the same section after the word "notification," the word "order,";
- (iii) by inserting in subsection (1B) of the same section after the word "notification" the word ", order";

Sec. 16.
(Recovery of
expenses.)

- (e) (i) by inserting in paragraph (b) of section sixteen after the word "given" the words "or order published";
- (ii) by inserting in the same section after the word "direction," where secondly occurring the word "order";

Sec. 26.
(Offences.)

- (f) (i) by inserting in paragraph (c) of subsection one of section twenty-six after the word "notification" the word ", order";
- (ii) by inserting in paragraph (d) of the same subsection after the word "notification" the word ", order";
- (iii) by inserting in subsection five of the same section after the word "proclamation" the word ", order";
- (iv) by inserting next after subsection six of the same section the following new subsection :—

(7) In any proceeding against any person for an offence against this Act any printed paper purporting to be an order by the Minister published under this Act and to be printed by the Government Printer shall be evidence that

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Plant Diseases (Amendment).

an order by the Minister, in the words printed in that paper, was duly published under this Act.

- (g) by omitting paragraph (a) of subsection one of section twenty-eight. Sec. 28.
(Regulations.)

5. (1) The Horticultural Stock and Nurseries Act, 1969, Amendment
of Act No.
3, 1969.
is amended—

- (a) (i) by omitting from section three the definition of “disease” and by inserting in lieu thereof the following definition :— Sec. 3.
(Interpretation.)

“disease” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- (ii) by omitting from the same section the definition of “pest” and by inserting in lieu thereof the following definition :—

“pest” has the meaning ascribed thereto in the Plant Diseases Act, 1924;

- (b) (i) by inserting in paragraph (a) of section twenty-two after the word “appointed” the words “or authorised to act as”; Sec. 22.
(Evidence.)

- (ii) by inserting in the same paragraph after the word “office” the words “or was authorised to act”.

(2) The amendments made by subsection one of this section shall commence on the day on which the Horticultural Stock and Nurseries Act, 1969, commences.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 27th September, 1971.

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