

PLANTS BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the law relating to plants and plant diseases, which at present is largely contained in the Orchard and Garden Diseases Act 1928, and to a lesser extent in the Introduction of Plants Act 1927 and the Seeds Importation Act 1927.

References to existing legislation appear as footnotes to the clauses of the Bill, and a table follows this note and indicates where the present legislation appears in the Bill, either in the same or a modified form.

Clause 1 relates to the Short Title.

Clause 2, subclause (1) defines terms and expressions commonly used in the Bill. Some terms, such as "infected" and "occupier" which are defined in the Orchard and Garden Diseases Act 1928, are now redefined in the new Act with more clarity. Other definitions, such as "conveyance", "land", "pest", and "serious disease or pest", appear for the first time in legislation relating to plants and plant diseases.

Subclause (2) makes it clear that any power vested in any person by the new Act for the purposes of the Act may be exercised for the purposes of any instrument made or direction given under the new Act.

Subclause (3) makes it clear that any duty, obligation, or requirement imposed on any person by any instrument made or any direction given under the new Act may be enforced in every way as if the duty, obligation, or requirement were expressly imposed by the new Act.

Clause 3 provides that the new Act shall bind the Crown.

PART I

IMPORTATION

Clause 4 is a new provision whereby the Director-General may, by notice in the *Gazette*, declare any land under his control or, with the consent of the appropriate Minister, any land of the Crown, other than a National Park or a public reserve, to be a quarantine station for the detention of imported plant material. The Director-General is empowered to give directions from time to time on the regulation, management, and control of quarantine stations and on the disposal, treatment, or destruction of plant material while in a quarantine station or in transit to or from a quarantine station. The Director-General may also give directions as to the time during which any plant material intended to be introduced into New Zealand is required to remain in a quarantine station. Provision is made for determining the appropriate Minister to consent to Crown land being declared to be a quarantine station.

No. 95—1

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Clause 5 re-enacts section 5 of the Orchard and Garden Diseases Act 1928 with slight amendments. At present, the Minister of Agriculture may from time to time by notice in the *Gazette* appoint ports to be the only ports from which fruit or any kind of fruit may lawfully be exported. He may appoint buildings to be stores for the inspection and grading of fruit, and the pre-cooling and other treatment of fruit before export, and may prescribe the manner in which those stores shall be used. The clause extends the Minister's powers to deal with all plant material, to appoint ports to be the only ports for importing as well as exporting plant material, and expressly mentions storage and fumigation among the purposes for which he may appoint buildings to be stores.

Clause 6 contains new provisions analogous to some of those contained in section 20 of the Animals Act 1967. Under this clause, the Director-General may for the purpose of preventing the introduction of any serious disease or pest into New Zealand, at any time by notice in the *Gazette*, prohibit or restrict the introduction of any plant material, disease, pest, soil, package, or other thing. The notice shall expire at the expiration of 6 months from the date of publication in the *Gazette*, but may from time to time be renewed.

Clause 7 contains new provisions enabling the Director-General to permit, for the purpose of scientific research or experiment and subject to such terms and conditions as he thinks fit, the importation into New Zealand of anything not otherwise eligible for importation into New Zealand under the new Act. The clause contains provisions to some extent analogous to the provisions of section 16 (1) (b) of the Animals Act 1967.

Clause 8 re-enacts section 10 (1) of the Orchard and Garden Diseases Act 1928 subject only to minor changes in expression. The clause enables an inspector or his assistant to seize and deal with anything introduced into New Zealand from abroad, or brought into any part of New Zealand from any other part of New Zealand, contrary to the new Act.

Clause 9 re-enacts section 10 (2) of the Orchard and Garden Diseases Act 1928, and obliges all officers of the Post Office and of the Customs to assist in carrying out the provisions of the new section 8.

Clause 10 empowers the making of regulations prohibiting or restricting the introduction into New Zealand of any plant material, soil, package, disease, or pest; prescribing treatment for aircraft and other conveyances arriving from overseas; providing for the production of plant health certificates and the giving of certificates by persons arriving in New Zealand as to whether they have any plant material, soil, fungus, bacterium, virus, micro-organism, insect, or mite or other invertebrate animal in their possession; requiring the sealing of food lockers containing plant material from overseas; and providing for the control of plant material kept or grown in isolation or under quarantine conditions other than in quarantine stations. The clause is based largely on the provisions of section 9 of the Orchard and Garden Diseases Amendment Act 1950.

PART II

DISEASE CONTROL

Clause 11 re-enacts subsections (2) and (3) of section 9 of the Orchard and Garden Diseases Act 1928 with only minor changes. The clause obliges

an occupier of land or the owner or person in charge of a conveyance to do whatever is directed by an inspector to be necessary in respect of that land or conveyance to prevent or control any disease or pest or eradicate any serious disease or pest. If that direction is not complied with to the satisfaction of the inspector, the measures so directed by the inspector may, with the authority of the Director-General, be undertaken by the inspector at the expense and without prejudice to the liability under the new Act of the occupier, owner, or person in charge.

Clause 12 contains new provisions, and is modelled on section 30 of the Animals Act 1967. The Governor-General may by Proclamation declare a state of plant disease emergency to exist throughout the whole or any specified part or parts of New Zealand if it appears to him that an outbreak of any serious disease or pest has occurred or is likely to occur in New Zealand or in any part of New Zealand. The Proclamation may be revoked at any time, and, in any case, shall not remain in force for more than 6 months, but a new Proclamation may be issued before or after the end of that period.

Clause 13 is new, and relates to the powers which may be exercised to prevent the establishment of a serious disease or pest if the Governor-General has by Proclamation declared that a state of plant disease emergency exists throughout or in any part of New Zealand. The owner of any plant material or other thing destroyed as an emergency measure may be compensated, out of money appropriated by Parliament for the purpose, for the fair market value of the plant material or thing. The fair market value shall be assessed at the time of the inspection resulting in its destruction or, in the event of dispute, as determined by two assessors or their umpire.

Clause 14 empowers the making of regulations relating to the control and eradication of disease. The clause re-enacts the provisions of section 3 of the Orchard and Garden Diseases Amendment Act 1940. The Director-General may declare land on which any specified disease is found, together with other land within a specified distance of it, to be an infected area. At the present time, this power can be exercised only in respect of orchards. Regulations may also be made prohibiting or restricting the introduction of any conveyance, machinery, tools, plant material, soil, or other thing into an infected area, or the removal of any of those things from an infected area, except with the approval of an inspector. Treatment of diseased, pestiferous, or infected plant material may be prescribed, as also the cleaning or disinfecting of soil, conveyances, machinery, equipment, tools, clothing, and other things which may have come into contact with that plant material. Payment of compensation at prescribed rates may be provided for by regulation, but this is now restricted to circumstances involving the eradication of a disease or pest.

PART III

PLANT CONTROL

Clause 15 is a new provision. If the Director-General has reason to believe that any disease or pest is present in any crop grown for export to such an extent that it would be impossible to eliminate all the diseased, pestiferous, or infected plant material by grading, he may direct the grower not to submit all or any portion of the crop for export. It is an offence for any grower or other person to pack or submit any crop for export contrary to any such notice.

Clause 16 empowers regulations to be made providing for a system of grading, packing, and packaging plant material; prescribing standard packages for plant material; providing for the branding and marking of packages; prescribing conditions under which a package or case may be used for carriage more than once; providing for the registration of nurseries; requiring persons sowing or planting any seed or viable portion of any specified plant to return information relating thereto; prescribing maximum permissible levels of toxic residues in or on plant material; declaring any specified areas to be plant or fruit growing districts; prescribing modes of treatment of plant material before export; and prohibiting or restricting the export of any plant material. The power to make regulations for those purposes is at present contained in sections 22 and 23 of the Orchard and Garden Diseases Act 1928, and section 3 of the Orchard and Garden Diseases Amendment Act 1940, with the exception of the power to prescribe maximum permissible levels of toxic residues, which is new.

PART IV

POWERS OF INSPECTORS

Clause 17 requires that inspectors be appointed from time to time, under the State Services Act 1962, for the purposes of the new Act, and enables the Director-General of Agriculture to appoint temporary inspectors.

Clause 18: At present, the Governor-General is empowered by section 3 of the Orchard and Garden Diseases Amendment Act 1940 to make regulations prescribing the functions and powers of inspectors. The clause redefines and makes explicit the powers of an inspector for the purposes of the new Act to detain, open, inspect, examine, sample, submit for diagnostic examination, direct reshipment, direct removal to a quarantine area, remove for treatment, treat, quarantine, disinfect, or destroy or otherwise dispose of, any plant material, beneficial organism, disease, pest, soil, package, packing material, article of luggage, or any other thing, in such manner as he thinks fit. The power to direct reshipment or to destroy or otherwise dispose of any thing under this section must be exercised by an inspector only with the concurrence of another inspector other than a temporary inspector.

Clause 19 relates to an inspector's rights of entry. At present, an inspector may enter any conveyance, orchard, land, or premises to inspect and otherwise deal with any plants or packages. Under the new Act no inspector may enter any dwellinghouse unless authorised by a warrant issued by a Magistrate, which shall not be issued unless the Magistrate is satisfied that there are reasonable grounds for requiring entry to the dwellinghouse.

Clause 20 relates to the powers of an inspector to employ assistants. At present, this provision is contained in section 11 of the Orchard and Garden Diseases Act 1928 together with a provision enabling payment to be made to any person so employed. Both provisions are re-enacted in this clause.

Clause 21 re-enacts section 11 (2) of the Orchard and Garden Diseases Act 1928 in an amended form, to provide that any person who, by failing to comply with any provision of the new Act, causes an inspector or his assistant

or an employee in the State services to incur an expense which would not otherwise have been incurred shall be liable for that expense which may be recovered from that person as a debt due to the Crown.

Clause 22 re-enacts section 13 (1) of the Orchard and Garden Diseases Act 1928 making it an offence to obstruct, hinder, interrupt, threaten, or assault any inspector, or his assistant, in the performance of his duty. Certain minor provisions at present contained in the said section 13 (1), relating to improper or abusive language, are omitted from this clause. The provisions of section 13 (2) of the Orchard and Garden Diseases Act 1928 providing that proceedings for the recovery of any fine shall not be a bar to any legal action by an inspector, are considered now to be redundant, and on that account are also omitted.

Clause 23 re-enacts section 14 of the Orchard and Garden Diseases Act 1928 with slight amendments. The provision deeming an inspector or his assistant not to be a trespasser by reason of any authorised entry upon any land or premises is omitted from the new Act as being redundant. The protection afforded to inspectors under this clause is re-expressed to make clear that the protection extends no further than to cover the reasonable exercise of powers conferred by the new Act.

PART V

MISCELLANEOUS PROVISIONS

Clause 24 re-enacts section 15 of the Orchard and Garden Diseases Act 1928, and relates to how notices may be given under the new Act. If the notice relates to land, and the occupier cannot be found or is unknown, the notice may be given by affixing it on a conspicuous place on the land to which it relates.

Clause 25 re-enacts, with some modifications, section 4 of the Introduction of Plants Act 1927. At present, section 4 of that Act provides that a person shall not be deemed to have imported a plant if he receives it from beyond New Zealand without his consent given prior to its dispatch; but if its importation is prohibited he must destroy it by fire, and if it may be introduced under a permit he must either apply for a permit or destroy the plant by fire.

Subclause (1) of this clause re-enacts the provision whereby any person receiving plant material from beyond New Zealand without his consent shall not be deemed to have introduced the material, but the recipient is now required, immediately on receipt of the material, to notify an inspector and carry out the directions of the inspector as to its destruction, disposal, or treatment.

Clause 26 is a new provision enabling the Director-General to issue instructions as to the existence of any disease in any place, country, or region, to determine the classification, name, or identity of any plant material, disease, or pest, and to designate any organism, other than a vertebrate animal, recognised to be beneficial to plants generally or to any kind of plants or to any living process carried on by plants, as a beneficial organism. Every instruction shall be conclusive until revoked or amended by the Director-General in writing.

Clause 27 is a new provision making it an offence for any person knowingly to make a false declaration or a false certificate under the Act.

Clause 28 relates to offences, and re-enacts section 16 of the Orchard and Garden Diseases Act 1928 with only minor amendments. It is an offence to sell, carry, convey, distribute, or retain any plant material or other thing which has been introduced into New Zealand contrary to the new Act. It is also an offence for any person to sell, carry, convey, distribute, or retain any plant material soil, package or other thing knowing it to be affected by a serious disease or pest or by a disease or pest which an inspector has directed him to control.

Clause 29 re-enacts section 18 of the Orchard and Garden Diseases Act 1928 relating to fines, but increases the maximum fine for an offence against the Act from \$40 to \$500.

Clause 30 re-enacts section 20 of the Orchard and Garden Diseases Act 1928 to provide that all money recovered or received under the new Act, other than fines, shall be paid into the Public Account by remitting to the Director-General. The present provision requiring fines to be paid into the Public Account is now covered by section 208 of the Summary Proceedings Act 1957.

Clause 31 empowers the making of regulations prescribing matters for which fees shall be payable and fixing those fees; providing for the appointment of advisory committees and for assessors; and providing for such matters as are necessary to give full effect to the provisions of the new Act. Fees, salary, and allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 may be paid to the members of any advisory committee or to assessors. Regulations may provide that it shall be necessary to obtain a permit from the Minister, the Director-General, or any inspector, for the introduction into New Zealand of any plant material or other thing the subject of this Act; and that the Minister, the Director-General, or the inspector, may in his discretion refuse any application for a permit or may grant the application wholly or partly and either unconditionally or on or subject to such conditions as he thinks fit. Regulations may confer on the Minister, the Director-General, or any inspector, power to issue instructions, orders, requirements, permits, authorities, or notices for the purpose of the new Act. Regulations may be made to apply throughout New Zealand or within any specified part or parts of New Zealand.

Clause 32 makes consequential amendments to section 13 (7) of the Animals Act 1967, section 71 of the Forests Act 1949, section 6 of the Department of Agriculture Act 1953, and the Schedule to the Department of Agriculture Act 1953.

Clause 33 provides that, subject to clause 32, nothing in the new Act shall derogate from any provision of the Apiaries Act 1969, the Animals Act 1967, the Noxious Weeds Act 1950, the Stock Foods Act 1946, or any regulations made under any of those Acts.

Clause 34 repeals the enactments specified in the Schedule to the new Act including, principally, the Orchard and Garden Diseases Act 1928, the Introduction of Plants Act 1927, and the Seeds Importation Act 1927.

CORRESPONDING TABLE OF ENACTMENTS REPEALED

THE INTRODUCTION OF PLANTS ACT 1927, No. 39
(1957 REPRINT, VOL. 6, p. 667)

Section of Act	Clause of Bill
1	Short Title
2	2
3	10 (a), 31 (3)
4	25
5	2
6	..
7	10 (a)

THE SEEDS IMPORTATION ACT 1927, No. 54 (1957 REPRINT, VOL. 13, p. 751)

Section of Act	Clause of Bill
1	Short Title
2	2
3	..
4 (1)	17
4 (2)	19
5	..
6	28, 29
8	5, 10, 31
9	10 (a)

THE ORCHARD AND GARDEN DISEASES ACT 1928, No. 4
(1957 REPRINT, VOL. 11, p. 457)

Section of Act	Clause or Schedule of Bill
1	Short Title
2	2
3	Repealed
4	Repealed
5	5
6	17
7	11
8	Repealed
9 (1)	11 (1), 18, 19
9 (2)-(3)	11
9 (4)	18
10 (1)	8
10 (2)	9
11 (1)	20
11 (2)	21
12	..
13 (1)	22
13 (2)	..
14	23
15	24

THE ORCHARD AND GARDEN DISEASES ACT 1928, No. 4
(1957 REPRINT, VOL. 11, p. 457)—*continued*

Section of Act	Clause or Schedule of Bill
16	28
17	..
18	29
19	..
20	30
21	Repealed
22	16, 31
23	16
24	Repeals

THE STATUTES AMENDMENT ACT 1937, No. 38 (1957 REPRINT, VOL. 11, p. 469)

Section of Act	Clause of Bill
28	19, 31 (1) (a)

THE ORCHARD AND GARDEN DISEASES AMENDMENT ACT 1940, No. 20
(1957 REPRINT, VOL. 11, p. 470)

Section of Act	Clause of Bill
1	Short Title
2	Repealed
3 (1)	31 (1) (a)
3 (2)	14, 18, 16 (f)
3 (3)	31 (2)
4	Repeals

THE ORCHARD AND GARDEN DISEASES AMENDMENT ACT 1950, No. 59
(1957 REPRINT, VOL. 11, p. 470)

Section of Act	Clause of Bill
1	Short Title
2	2
3	2
4	2, 11 (1)
5	8
6	28
7	..
8	31 (1) (a)
9 (1)	10
9 (2)	31 (3)
9 (3)	5
10	16, 31
11	Repeals

Hon. Mr Carter

PLANTS

ANALYSIS

	PART III
	PLANT CONTROL
	15. Diseases and pests in crops for export
	16. Regulations
	PART IV
	POWERS OF INSPECTORS
	17. Appointment of inspectors
	18. Powers of inspectors
	19. Rights of entry
	20. Inspector may employ assistants
	21. Liability for causing inspector to incur expense
	22. Obstructing or hindering inspector an offence
	23. Protection of inspectors
	PART V
	MISCELLANEOUS PROVISIONS
	24. Giving notice under this Act
	25. Dispatch of plants to New Zealand
	26. Existence of disease
	27. Erroneous and knowingly false declarations
	28. Offences
	29. Fines
	30. Money to be paid into Public Account
	31. Regulations
	32. Consequential amendments
	33. Other legislation not affected
	34. Repeals Schedule
Title	
1. Short Title	
2. Interpretation	
3. Act to bind Crown	
PART I	
IMPORTATION	
4. Quarantine stations	
5. Minister may appoint ports	
6. Emergency restrictions on importation	
7. Importation for purposes of scientific research	
8. Plant material, etc., illegally introduced may be seized	
9. Duty of Post Office officers and Customs officers	
10. Regulations	
PART II	
DISEASE CONTROL	
11. Control or eradication of disease	
12. Proclamation of plant disease emergency	
13. Emergency powers for eradication of serious disease	
14. Regulations	

A BILL INTITULED

An Act to consolidate and amend the law relating to plants and plant diseases

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 95—1

1. Short Title—This Act may be cited as the Plants Act 1970.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Aircraft” includes a hovercraft: 5

“Approved” means approved by the Director-General:

“Beneficial organism” means any organism designated as a beneficial organism by the Director-General under section 26 of this Act:

“Conveyance” means any kind of vehicle, whether self-propelled or not, which may travel by land, sea, or air; and includes a cargo container: 10

“Director-General” means the Director-General of Agriculture:

“Disease” means any unhealthy condition in any plant material or beneficial organism which may be caused directly or indirectly by any form of fungus, bacterium, virus, or micro-organism; and includes any form of fungus, bacterium, virus, or micro-organism which may cause such a condition; and “diseased” 15
has a corresponding meaning: 20

“Fruit” means the edible product of any plant whether attached to the plant or not; and includes any peel, skin, shell, or seeds, whether edible or not:

“Infected”, in relation to any plant material or beneficial organism, means that the plant material or beneficial organism is not known to be actually diseased or pestiferous, but may in the opinion of an inspector have had direct or indirect contact or been in association with, or been in the vicinity of, any disease, pest, or infected plant material or infected beneficial organism; and, in relation to any package, includes any case, container, cargo container, or other package or packing material in which any disease or pest, or any diseased, pestiferous, or infected plant material is, or has been packed, or which in the opinion of an inspector may have had direct or indirect contact or association with, or been in the vicinity of, any disease or pest, or any diseased, pestiferous, or infected plant material: 25
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“Inspector” means any inspector or temporary inspector appointed for the purposes of this Act; and includes any officer appointed as an inspector under section 6

of the Department of Agriculture Act 1953 (as amended by section 2 of the Department of Agriculture Amendment Act 1962) :

5 “Land” includes any area, field, farm, garden, orchard, nursery, hothouse, glasshouse, shadehouse, cool store, dwellinghouse, shop, building, room, or other place or premises; and references to land extend to and include any water, harbour, highway, road, wharf, and port:

10 “Minister” means the Minister of Agriculture:

“Nursery” means any place used for raising or growing any plant material for sale:

15 “Occupier”, in relation to any land, means the occupant of the land, and if the land is unoccupied or the occupant is unknown or cannot be found includes the owner of the land or of any estate or interest in the land:

20 “Pest” includes the living stage of any insect, mite, or other invertebrate animal, which may directly or indirectly cause an unhealthy condition in any plant material or beneficial organism; and includes any such condition caused by any pest; and “pestiferous” has a corresponding meaning:

25 “Plant material” includes any plant, tree, shrub, herb, flower, nursery stock, culture, vegetable, or other vegetation; and also includes any fruit, seed, spore, and portion or product of any plant unless, by any manufacturing process, it has been rendered no longer viable, and has been freed from all diseases and pests, and has been made incapable of carrying any disease or pest:

30 “Port” includes seaport, airport, and post office:

35 “Serious disease or pest” means a disease or pest that is not known to be present in New Zealand, or, if known to be present in New Zealand, is one in respect of which measures are being taken under this Act to eradicate it from New Zealand or from any part of New Zealand:

40 “Soil” includes earth, water, peat, compost, sand, clay, and any other substance capable of supporting plant life, or transmitting any disease or pest, whether or not used or intended to be used as a growing medium, or in any process of manufacture, or as ballast, or for any other purpose whatsoever.

45 (2) Any power vested in any person by this Act and expressed to be for the purposes of this Act may be exercised by that person for the purposes of any instrument made or

any direction given under this Act in every way as if the purposes of that instrument or direction were express purposes of this Act.

(3) Any duty, obligation, or requirement imposed on any person by any instrument made or any direction given under this Act may be enforced against that person in every way as if the duty, obligation, or requirement imposed by that instrument or direction were expressly imposed by this Act; and any person who fails to comply with or observe and perform any such duty, obligation, or requirement commits an offence against this Act.

Cf. 1928, No. 4, s. 2

3. Act to bind Crown—This Act shall bind the Crown.

Cf. 1967, No. 50, s. 3

PART I

15

IMPORTATION

4. Quarantine stations—(1) The Director-General may from time to time by notice in the *Gazette* define any land under his control or, with the consent of the appropriate Minister, any land of the Crown, other than a National Park within the meaning of the National Parks Act 1952 or a public reserve within the meaning of the Reserves and Domains Act 1953, and declare it to be a quarantine station for the detention of imported plant material or of one or more kinds of imported plant material, and from time to time may vary, alter, re-define, or abolish any such quarantine station.

(2) The cost of erecting buildings and fencing on quarantine stations shall be met out of any money from time to time appropriated by Parliament for the purposes of this section.

(3) The Director-General may from time to time give directions on the regulation, management, and control of quarantine stations and the disposal, treatment, or destruction of plant material while in a quarantine station or in transit to or from a quarantine station; and may by any such direction specify the time during which any plant material intended to be introduced into New Zealand shall remain in a quarantine station.

(4) The appropriate Minister to grant his consent under this section shall be the Minister for the time being charged with the administration of the land or with the administration of the enactment (if any) to which the land is subject, or, if there is no such Minister, shall be the Minister of Agriculture.

If any question arises as to who is the appropriate Minister to grant his consent under this section in any case it shall be determined by the Governor-General in Council, whose decision shall be final.

5 Cf. 1967, No. 50, s. 11

5. Minister may appoint ports—The Minister may from time to time, by notice in the *Gazette*—

- 10 (a) Appoint any specified ports to be the only ports at which any plant material or any specified class of plant material may lawfully be imported or exported, either generally or to or from any specified country or place;
- 15 (b) Appoint fit buildings to be stores for the inspection and grading therein of any plant material or any specified class of plant material;
- (c) Appoint fit buildings to be stores for the storage, cooling, fumigation, or other treatment of any plant material or any specified class of plant material after importation or before exportation; and
- 20 (d) Prescribe the manner in which and the conditions subject to which stores for inspection, grading, or treatment of any plant material or any specified class of plant material shall be used.

Cf. 1928, No. 4, s. 5

25 **6. Emergency restrictions on importation**—(1) Notwithstanding anything in this Act, the Director-General may for the purpose of preventing the introduction of any serious disease or pest into New Zealand, at any time by notice in the *Gazette* prohibit or restrict the introduction of any plant material, disease, pest, soil, package, or any other thing whatsoever.

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(2) Any notice under subsection (1) of this section shall expire at the expiration of 6 months from the date of its publication in the *Gazette*, but may from time to time be renewed.

35 Cf. 1967, No. 50, s. 20

7. Importation for purposes of scientific research—Notwithstanding anything in this Act, the Director-General may, for the purpose of scientific research or experiment and subject to such terms and conditions as he thinks fit, permit

40 the importation into New Zealand of anything not otherwise eligible under this Act for importation into New Zealand.

Cf. 1967, No. 50, s. 16 (1) (b)

8. Plant material, etc., illegally introduced may be seized— Anything introduced into New Zealand from abroad, or brought into any part of New Zealand from any other part of New Zealand, contrary to this Act, may, together with anything else which may thereby be infected, be seized by an inspector or an assistant of an inspector, and be disinfected, destroyed, or otherwise disposed of as the inspector or his assistant thinks fit, or may be required to be taken to a quarantine station, or be placed in isolation or under quarantine conditions, for further inspection and treatment as may be required.

Cf. 1928, No. 4, s. 10 (1)

9. Duty of Post Office officers and Customs officers—It shall be the duty of all officers of the Post Office and of the Customs respectively to assist in carrying out the provisions of section 8 of this Act, and to prevent the introduction into New Zealand or the bringing to any part of New Zealand of anything contrary to this Act, and for that purpose they may, in respect of anything so introduced or attempted to be introduced or brought, exercise all the powers conferred by the Post Office Act 1959 in the case of postal articles posted in breach of that Act, and by the Customs Act 1966 in the case of uncustomed or prohibited goods.

Cf. 1928, No. 4, s. 10 (2)

10. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prohibiting or restricting the introduction into New Zealand, either generally or from any specified region, country, or place of origin, of all plant material, or such plant material as may be named, identified, or specified in the regulations as being likely to introduce any disease or pest into New Zealand, or as having noxious or undesirable characteristics, or as being of a weak, inferior, or undesirable strain:
- (b) Prohibiting or restricting the introduction into New Zealand, either generally or from any specified region, country, or place of origin, of any soil, package, or other thing specified in the regulations as being likely to introduce any disease or pest into New Zealand:

- (c) Prohibiting or restricting the introduction into New Zealand of any disease or pest:
- 5 (d) Prescribing conditions for introducing plant material into New Zealand, either generally or from any specified region, country, or place of origin:
- (e) Prescribing treatment for aircraft or any other conveyance arriving from overseas and the procedure to be adopted on their arrival so as to prevent the introduction of any disease or pest into New Zealand:
- 10 (f) Requiring the sealing to the satisfaction of an inspector, on any ship or aircraft arriving from overseas, of food lockers containing any plant material that has come from any overseas country, or any plant material that has been in the same locker as plant material that has come from an overseas country; and providing for the seizure of all such plant material if the locker cannot be sealed to the satisfaction of an inspector:
- 15 (g) Providing for masters of ships and aircraft and controlling authorities of ports to give such information for the purposes of this Act as may be prescribed from time to time:
- 20 (h) Requiring every person (including every member of the crew of any vessel or aircraft) arriving in New Zealand from overseas to give a certificate declaring in such form as may be prescribed whether he has any plant material, fungus, bacterium, virus, or micro-organism, or any insect, mite, or other invertebrate animal, or any soil, in his possession:
- 25 (i) Providing for the production of plant health certificates granted or issued overseas:
- 30 (j) Providing for the inspection, observation, disinfection, treatment, destruction, reshipment, or disposal of any introduced plant material and the progeny of any introduced plant material, or any soil, package, or other thing:
- 35 (k) Requiring the provision and maintenance by harbour boards, airport authorities, and local authorities or any of them of—
- 40 (i) Suitable office accommodation at such place or places as the Minister (after consultation with the Board or authority) may direct, for the exclusive use of inspectors; and

(ii) Suitable containers for use in conveying garbage, rubbish and packing material to the place at which it is to be incinerated:

(1) Authorising harbour boards, airport authorities, and local authorities to make reasonable charges for the use of anything installed, provided, or maintained by them in accordance with any regulations made under paragraph (k) of this section: 5

(m) Providing for the control of plant material kept or grown in isolation or under quarantine conditions other than in quarantine stations. 10

Cf. 1927, No. 39, s. 3; 1950, No. 59, s. 9

PART II

DISEASE CONTROL

11. Control or eradication of disease—(1) The occupier of any land or the owner or person in charge of any conveyance shall do whatever is directed by an inspector to be necessary in respect of that land or conveyance to eradicate any serious disease or pest from, or to control or prevent the spread of any disease or pest to or from, any place whatsoever. 15 20

(2) If the occupier, owner, or person in charge fails to comply, to the satisfaction of the inspector, with any direction given under subsection (1) of this section, the inspector may with the authority of the Director-General carry out the measures directed in every way at the expense, but without prejudice to the liability under this Act, of the occupier, owner, or person in charge. 25

Cf. 1928, No. 4, ss. 7, 9

12. Proclamation of plant disease emergency—(1) If at any time it appears to the Governor-General that an emergency has arisen or is likely to arise by reason of an outbreak of any serious disease or pest having occurred or being likely to occur in New Zealand or in any part or parts of New Zealand, the Governor-General may by Proclamation approved in Executive Council declare that a state of plant disease emergency exists throughout an area or areas comprising, according to the tenor of the Proclamation, the whole of New Zealand or such part or parts thereof as may be specified or defined in the Proclamation in that behalf. 30 35

(2) The Governor-General may at any time in like manner revoke any such Proclamation. 40

(3) No such Proclamation shall remain in force for more than 6 months, but nothing in this subsection shall prevent the issue of another Proclamation before or after the end of that period.

5 Cf. 1967, No. 50, s. 30

13. Emergency powers for eradication of serious disease—

(1) If the Governor-General has, by Proclamation approved in Executive Council under section 12 of this Act, declared that a state of plant disease emergency exists throughout all or any part or parts of New Zealand, while that state of emergency continues the Minister may direct that such measures be taken as he, or any other person authorised in writing by him, may specify as necessary for the purpose of preventing the establishment of the serious disease or pest in New Zealand or any part of New Zealand, or eradicating it from New Zealand or any part of New Zealand.

(2) The Minister of Agriculture may pay, out of money appropriated by Parliament for the purpose, to the owner of plant material or any other thing destroyed as an emergency measure an amount by way of compensation equal to the fair market value thereof, fixed as at the time of the inspection that results in the destruction of the plant material. Such compensation shall be ascertained in the case of dispute by 2 assessors, 1 to be appointed by an inspector and 1 by the owner, with power to the 2 assessors to appoint an umpire. The decision of the 2 assessors or the umpire shall be final.

Cf. 1967, No. 50, s. 31

14. Regulations—Without limiting the power to make regulations conferred by section 10 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Providing that any land on which any specified disease or pest is found, together with any land which is within a specified distance from any part of that land, may be declared by the Director-General to be an infected area:

(b) Prohibiting or restricting, except with the approval of an inspector and upon or subject to any conditions he may think fit to impose, the introduction into an infected area or the removal from an infected area of any conveyance, machinery, tools, equipment, or

- other thing or any plant material or any form of fungus, bacterium, virus, or micro-organism, or any insect, mite, or other invertebrate animal, or soil:
- (c) Prescribing the treatment and measures to be adopted in respect of any plant material which is diseased, pestiferous, or infected, and requiring the cleansing or disinfecting of soil, conveyances, machinery, tools, equipment, clothing, footwear, or other things which may have come into contact with that plant material:
- (d) Providing for the destruction or special treatment of any specified plant material and the special treatment of land and, if eradication of a disease or pest is involved, for the payment of compensation for the destruction or treatment at such rates as may be fixed by the regulations:
- (e) Prescribing the manner in which plant material, soil, and packages shall be treated, cleansed, destroyed, or otherwise disposed of.
- Cf. 1940, No. 20, s. 3

PART III

PLANT CONTROL

15. Diseases and pests in crops for export—(1) If the Director-General has reason to believe that any disease or pest is present in any crop which the grower intends to pack and submit for export, and in the opinion of the Director-General that disease or pest is present to such a degree that it would be impossible to eliminate all diseased, pestiferous, or infected plant material by grading, he may direct the grower by notice given in writing not to submit for export all or such portion of the crop on all or such portion of the property of the grower as the Director-General may decide.

(2) Any grower or any other person who, contrary to any such notice, packs or submits any crop for export commits an offence against this Act.

16. Regulations—Without limiting the power to make regulations conferred by sections 10 and 14 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for a system of grading, packing, and packaging plant material in accordance with grades and methods and types of packing to be determined from time to time by the Director-General:
- 5 (b) Prescribing standard packages for specific kinds of plant material intended for export or for sale in New Zealand:
- (c) Providing for the branding or marking of packages of specific kinds of plant material, and for the registration of brands and marks:
- 10 (d) Prescribing the conditions under which any package or case may be used more than once for the carriage of fruit or plant material:
- (e) Providing for the registration of nurseries subject to prescribed terms and conditions:
- 15 (f) Providing that any person who sows or plants the seed or viable portion of any specified plant shall give such information or make such returns in relation thereto as may be specified in the regulations:
- 20 (g) Declaring any specified area to be a plant or fruit growing district under a name to be specified in the regulations:
- (h) Prescribing maximum permissible levels at which residues of toxic chemicals may be present in or on plant material, and the manner in which plant material having a higher than permissible residue of any toxic chemical shall be treated, destroyed, or otherwise disposed of:
- 25 (i) Prescribing modes of treatment of plant material before export, and prescribing such other things as shall be required of plant material for export:
- 30 (j) Prohibiting or restricting the export of any plant material.

Cf. 1928, No. 4, s. 23

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PART IV

POWERS OF INSPECTORS

17. Appointment of inspectors—(1) There shall be appointed from time to time, under the State Services Act 1962, such inspectors as may be necessary for the purposes of this Act.

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(2) For the purposes of this Act the Director-General may from time to time appoint temporary inspectors who may be full-time officers of the Department of Agriculture or persons

other than full time officers of the Department of Agriculture. Temporary inspectors shall perform their duties only when so directed by the Director-General. If any person who is appointed as a temporary inspector is a full-time officer or employee in the State services he shall not be entitled to any additional remuneration in respect of his appointment under this subsection. 5

Cf. 1928, No. 4, s. 6; 1967, No. 50, s. 5

18. Powers of inspectors—Every inspector may, for the purposes of this Act, detain, open, inspect, examine, sample, submit for diagnostic examination, direct reshipment, direct removal to a quarantine area, remove for treatment, treat, quarantine, disinfect, or destroy or otherwise dispose of, any plant material, beneficial organism, disease, pest, soil, package, packing material, article of luggage, or other thing, in such manner as he thinks fit: 10 15

Provided that no inspector shall direct reshipment or destroy or otherwise dispose of any thing under this section, unless with the concurrence of another inspector other than a temporary inspector. 20

Cf. 1928, No. 4, s. 9 (4); 1940, No. 20, s. 3; 1950, No. 59, s. 9 (3) (f)

19. Rights of entry—Every inspector may, for the purposes of this Act and on producing (if so required) due evidence of his appointment, enter at any time upon any land or into any conveyance; but no inspector shall enter any dwelling-house pursuant to this section unless authorised in that behalf by a warrant under the hand of a Magistrate, who shall not grant the warrant unless he is satisfied that the inspector has reasonable grounds for requiring entry to the dwellinghouse. 25 30

Cf. 1928, No. 4, s. 9; 1967, No. 50, s. 6

20. Inspector may employ assistants—An inspector may, whenever necessary for the purposes of this Act, employ at such rate of remuneration as may be approved any person or persons to assist him. 35

Cf. 1928, No. 4, s. 11 (1)

21. **Liability for causing inspector to incur expense**—If any person, by failing to comply with or acting contrary to this Act, causes an inspector or an assistant of an inspector or an employee in the State services to incur an expense that he would not otherwise have incurred, that person shall reimburse the Crown for the full amount of that expense reasonably and properly incurred and that amount shall be recoverable from him as a debt due to the Crown.

Cf. 1928, No. 4, s. 11 (2); 1967, No. 50, s. 8

22. **Obstructing or hindering inspector an offence**—Every person commits an offence against this Act who directly or indirectly obstructs, hinders, interrupts, threatens, or assaults any inspector or any assistant of an inspector in the performance of his duty under this Act.

Cf. 1928, No. 4, s. 13 (1)

23. **Protection of inspectors**—An inspector or an assistant of an inspector shall not be liable for any loss or damage resulting from the exercise of powers conferred by this Act unless the loss or damage is caused otherwise than in the reasonable exercise of those powers.

Cf. 1928, No. 4, s. 14

PART V

MISCELLANEOUS PROVISIONS

24. **Giving notice under this Act**—Any notice or direction which may be given to any occupier of land or other person by an inspector in the performance of his duties under this Act may be given by delivering the notice or direction to the occupier or other person or by leaving it or posting it addressed to him at his usual or last known place of abode or business in New Zealand, or if he is unknown or cannot be found in New Zealand and the notice or direction relates to land, by affixing a copy of the notice or direction in some conspicuous place on the land to which the notice relates.

Cf. 1928, No. 4, s. 15

25. **Dispatch of plants to New Zealand**—(1) No person shall be deemed to have introduced into New Zealand plant material received by him from beyond New Zealand without his consent given before dispatch of the material to New Zealand.

(2) Notwithstanding that any person receives plant material from beyond New Zealand without his consent given before dispatch of the material, he shall, on receipt of the plant material, immediately notify an inspector and carry out to the satisfaction of the inspector such directions as the inspector may give as to the destruction, disposal, or treatment of the plant material. 5

Cf. 1927, No. 39, s. 4

26. Existence of disease—(1) For the purposes of this Act, the Director-General may at any time issue an instruction in writing— 10

- (a) Stating that any disease or pest is or is not known or believed to exist in any place, country, or region:
- (b) Determining the classification, name, or identity of any plant material, disease, or pest: 15
- (c) Designating any organism, other than a vertebrate animal, recognised to be beneficial to plants generally or to any kind of plants, or to any living process carried on by plants, as a beneficial organism. 20

(2) Every instruction given under this section shall, for the purposes of this Act, be conclusive until revoked or amended in writing by the Director-General.

27. Erroneous and knowingly false declarations—Every person who makes any false declaration or gives any false certificate under this Act knowing the declaration or certificate to be false commits an offence against this Act. 25

28. Offences—Every person commits an offence against this Act who directly or indirectly by himself, his servant or agent— 30

- (a) Possesses, keeps, retains, sells, offers or exposes for sale, carries, conveys, gives, or distributes in any manner, any plant material, soil, package, fungus, bacterium, virus, insect, mite or other invertebrate animal, or other thing whatsoever, which to his knowledge 35 has been introduced into New Zealand contrary to this Act; or

- 5 (b) Possesses, keeps, retains, sells, offers or exposes for sale, carries, conveys, gives, or distributes in any manner, any plant material or beneficial organism which to his knowledge is suffering from a serious disease or pest, or from a disease or pest which an inspector has by notice in writing directed him to control; or
- 10 (c) Possesses, keeps, retains, sells, offers or exposes for sale, carries, conveys, gives, or distributes in any manner, any soil, package, or other thing whatsoever, which to his knowledge is infected by a serious disease or pest, or is infected by a disease or pest which an inspector has by notice in writing directed him to control; or
- 15 (d) Does any other act in breach of this Act; or
- (e) Fails to observe and perform any duty or obligation imposed on him by this Act.

Cf. 1928, No. 4, s. 16

20 **29. Fines**—Every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding \$500.

Cf. 1928, No. 4, s. 18

25 **30. Money to be paid into Public Account**—All money, other than fines, recovered or received under this Act shall be paid into the Public Account by remitting it to the Director-General.

Cf. 1928, No. 4, s. 20

30 **31. Regulations**—(1) Without limiting the power to make regulations conferred by sections 10, 14, and 16 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 35 (a) Prescribing the matters for which fees shall be payable under this Act, fixing the amount of those fees, and the mode of their payment and recovery;
- (b) Providing for the appointment of advisory committees, and for assessors;
- (c) Providing for such matters as are contemplated by or are necessary to give full effect to the provisions of this Act and for its due administration.

(2) There may be paid to the members of any advisory committee or assessors appointed pursuant to any regulations made under this Act remuneration by way of fees, salary, and allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such advisory committee or assessors were a statutory Board within the meaning of that Act. 5

(3) Any regulations under this Act may provide that it shall be necessary to obtain a permit from the Minister, the Director-General, the holder of any specified office in the State services, or any inspector, for the introduction into New Zealand of any plant material, beneficial organism, package, soil, fungus, bacterium, virus, or micro-organism, or any other thing, and that the Minister, the Director-General, the holder for the time being of the office, or the inspector, may in his discretion refuse any application for a permit or may grant the application wholly or partly and either unconditionally or on or subject to such conditions as he thinks fit. 10 15

(4) Any regulations under this Act may confer on the Minister, the Director-General, or any inspector, power to issue, in such manner as may be prescribed, instructions, orders, requirements, permits, authorities, or notices for the purposes of this Act, whether by way of written instrument or by oral direction as the regulations shall provide. 20 25

(5) Any regulations under this Act may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as may be specified in the regulations. 30

Cf. 1940, No. 20, s. 3 (2) (d) ; 1950, No. 59, s. 9

32. Consequential amendments—(1) Section 13 of the Animals Act 1967 is hereby amended by adding to subsection (7) the words “or the introduction of beneficial organisms in accordance with the Plants Act 1970”. 35

(2) Section 71 of the Forests Act 1949 is hereby amended by omitting the words “the Orchard and Garden Diseases Act 1928”, and substituting the words “the Plants Act 1970”.

(3) Section 6 of the Department of Agriculture Act 1953 is hereby amended— 40

(a) By omitting from paragraph (a) of subsection (2) the words “the Orchard and Garden Diseases Act 1928, the Seeds Importation Act 1927”, and substituting “the Plants Act 1970”:

- (b) By repealing subparagraph (i) of paragraph (b) of subsection (2).
- (4) The Schedule to the Department of Agriculture Act 1953 is hereby amended—
- 5 (a) By omitting the words “The Introduction of Plants Act 1927”:
- (b) By omitting the words “The Orchard and Garden Diseases Act 1928”:
- 10 (c) By inserting, after the words “The Orchard Levy Act 1953”, the words “The Plants Act 1970”:
- (d) By omitting the words “The Seeds Importation Act 1927”.

33. Other legislation not affected—Subject to section 32 of this Act, nothing in this Act shall derogate from any provision of the Apiaries Act 1969, the Animals Act 1967, the Noxious Weeds Act 1950, the Stock Foods Act 1946, or any regulations made under any of those Acts.

34. Repeals—The enactments specified in the Schedule to this Act are hereby repealed.

SCHEDULE

Section 34

ENACTMENTS REPEALED

- 1927, No. 39—The Introduction of Plants Act 1927. (1957 Reprint, Vol. 6, p. 667.)
- 1927, No. 54—The Seeds Importation Act 1927. (1957 Reprint, Vol. 13, p. 751.)
- 1928, No. 4—The Orchard and Garden Diseases Act 1928. (1957 Reprint, Vol. 11, p. 457.)
- 1937, No. 38—The Statutes Amendment Act 1937: Section 28. (1957 Reprint, Vol. 11, p. 469.)
- 1940, No. 20—The Orchard and Garden Diseases Amendment Act 1940. (1957 Reprint, Vol. 11, p. 470.)
- 1950, No. 59—The Orchard and Garden Diseases Amendment Act 1950. (1957 Reprint, Vol. 11, p. 470.)