



THE FRUIT-TREE GRADING REGULATIONS 1945

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 18th day of
December, 1945

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

PURSUANT to the Orchard and Garden Diseases Act, 1928, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Fruit-tree Grading Regulations 1945.

(2) These regulations shall come into force on the 1st day of March, 1946.

(3) In these regulations, unless inconsistent with the context,—

“The said Act” means the Orchard and Garden Diseases Act, 1928 :

“Citrus tree” means any variety of lemon, orange, mandarin, grapefruit tree, or other citrus tree :

“Diameter,” in relation to a fruit-tree, means the greatest diameter of a lateral section of the trunk of the tree measured—

(a) In the case of a fruit-tree that has not been budded or grafted, at a point 2 in. above the ground-level ; or

(b) In the case of a fruit-tree that has been budded or grafted once only, at a point 2 in. above the union ; or

(c) In the case of a fruit-tree that has been budded or grafted more than once, at a point 2 in. above the last union :

“Fruit-tree” means any variety of apple, pear, quince, apricot, peach, nectarine, plum, cherry, or citrus tree :

“Nursery” means any land which is used for the raising or growing of any fruit-trees intended for sale and which is duly registered under the Nursery Registration Regulations 1939 :

“Sell” means to exchange for money or barter, and includes offering for sale by means of a printed or published or written advertisement or other means, and also includes exposing for sale or sending or delivering for sale or allowing to be sold or offered or exposed for sale; and “sale” has a corresponding meaning:

“Sub-package” means one of two or more packages enclosed in one cover.

(4) The regulations relating to the grading of fruit-trees for sale from nurseries made under the Orchard and Garden Diseases Act, 1908, on the 6th day of October, 1924, and enuring under the said Act, are revoked.

2. These regulations shall not apply to—

- (a) Any sale at any one time of fruit-trees of mixed varieties and not exceeding twenty-five in number; or
- (b) Any sale at any one time of fruit-trees of the same variety not exceeding ten in number; or
- (c) Any sale of citrus trees effected at any time before the 1st day of April, 1950; or
- (d) Any sale of fruit-trees for a purpose other than for replanting on land used or intended to be used for the production of fruit for sale; or
- (e) Any sale of seedling fruit-tree stocks that have not been budded or grafted.

3. Subject to the provisions of the last preceding regulation, no person, being the occupier of a nursery, shall sell any fruit-trees unless—

- (a) Such fruit-trees have within one month prior to the date of sale been graded by being included in one of the grades established by these regulations; and
- (b) Such fruit-trees conform to the specifications hereinafter set out for fruit-trees of the grade in which such fruit-trees purport to be included; and
- (c) All the other requirements of these regulations with respect to such fruit-trees have been complied with.

4. For the purposes of these regulations there shall be the following standard grades, that is to say—

- No. 1 Grade:
- No. 2 Grade:
- No. 3 Grade.

5. The standard by which the grade of any fruit-tree shall be determined shall be one of the respective standards hereinafter prescribed for that kind of fruit-tree.

6. (1) No. 1 Grade apple, pear, or quince trees shall include only one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is not less than $\frac{1}{2}$ in. nor more than 1 in.

(2) Notwithstanding the provisions of clause (1) of this regulation—

- (a) Any budded or grafted fruit-tree of any of the kinds referred to in this regulation the trunk of which is more than 1 in. in diameter may be included in No. 1 Grade if the age of the tree does not at time of sale exceed three years and if such tree has been budded or grafted not earlier than twenty-one months before being graded for sale:

- (b) Any pear-tree of the varieties Winter Nelis, Winter Cole, P. Barry, Marie Louise, Josephine de Malines, and Louise Bon de Jersey the trunk of which is less than $\frac{1}{2}$ in. but not less than $\frac{3}{8}$ in. in diameter may be included in No. 1 Grade if the age of the tree does not at time of sale exceed three years.

7. No. 2 Grade apple, pear, or quince trees shall include all one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is less than $\frac{1}{2}$ in. but not less than $\frac{1}{8}$ in., and may also include any pear-tree of the varieties Winter Nelis, Winter Cole, P. Barry, Marie Louise, Josephine de Malines, and Louise Bon de Jersey the diameter of the trunk of which is less than $\frac{5}{16}$ in. but not less than $\frac{1}{4}$ in. (irrespective of the age of the tree).

8. No. 3 Grade apple, pear, or quince trees shall include all trees that do not qualify for inclusion in either No. 1 Grade or No. 2 Grade.

9. No. 1 Grade apricot, peach, nectarine, plum, or cherry trees shall include only one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is not less than $\frac{1}{2}$ in. or more than 1 in.

10. No. 2 Grade apricot, peach, nectarine, plum, or cherry trees shall include only one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is less than $\frac{1}{2}$ in. but not less than $\frac{3}{8}$ in.

11. No. 3 Grade apricot, peach, nectarine, plum, or cherry trees shall include all trees that do not qualify for inclusion in either No. 1 Grade or No. 2 Grade.

12. Apple, pear, quince, apricot, peach, nectarine, plum, or cherry trees for inclusion in any grade shall, in addition to the requirements hereinbefore prescribed for the several grades, conform to the following requirements:—

- (a) Every tree shall be well rooted :
- (b) The trunk of every tree shall be reasonably straight :
- (c) Every tree for inclusion in No. 1 Grade or No. 2 Grade shall, if branched, be of good shape and shall have not less than three well-balanced branches, each of which shall be not less than 18 in. in length :
- (d) Every tree for inclusion in No. 3 Grade shall, if branched, be of reasonably good shape, and shall have made reasonably good growth during the growing season immediately preceding the date of grading.

13. No. 1 Grade citrus trees shall include only one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is, in the case of a lemon-tree, not less than $\frac{1}{2}$ in. nor more than 1 in., and in the case of any other citrus tree is not less than $\frac{7}{16}$ in. nor more than $\frac{3}{4}$ in. :

Provided that a tree which has been worked on *Poncirus trifoliata* stock may be included the diameter of the trunk of which is less than $\frac{1}{2}$ in. if such diameter is not less than $\frac{3}{8}$ in. and if the age of the tree does not at time of sale exceed three years.

14. No. 2 Grade citrus trees shall include only one-year-old, two-year-old, and three-year-old trees the diameter of the trunk of which is, in the case of a lemon-tree, less than $\frac{1}{2}$ in. but not less than $\frac{3}{8}$ in., and in the case of any other citrus trees is less than $\frac{5}{16}$ in. but not less than $\frac{1}{16}$ in.

15. No. 3 Grade citrus trees shall include all trees that do not qualify for inclusion in either No. 1 Grade or No. 2 Grade.

16. Citrus trees for inclusion in any grade shall, in addition to the requirements hereinbefore prescribed for the several grades, conform to the following requirements :—

- (a) Every tree shall be well rooted :
- (b) Every tree shall be budded not less than 6 in. above the ground-level :
- (c) The trunk of every tree shall be reasonably straight :
- (d) In the case of a tree for inclusion in No. 1 Grade or No. 2 Grade other than trees worked on *Poncirus trifoliata* stock—
 - (i) The tree shall, if branched, be of good shape and the average length of the one-year-old wood comprising the main branches shall be not less than 12 in. :
 - (ii) The lowest scaffold branch shall be not less than 21 in. above the ground-level measured before removal from the soil :
- (e) In the case of a tree for inclusion in No. 1 Grade or No. 2 Grade being a tree which has been worked on *Poncirus trifoliata* stock—
 - (i) The tree shall, if branched, be of good shape and shall have made reasonably good growth during the growing season immediately preceding the date of grading :
 - (ii) The lowest scaffold branch shall be not less than 18 in. above the ground-level measured before removal from the soil :
- (f) Every tree for inclusion in No. 3 Grade shall, if branched, be of reasonably good shape and shall have made reasonably good growth during the growing season immediately preceding the date of grading.

17. In view of the variations inevitable to grading and handling, it is hereby enacted that it shall be a defence to any person charged with selling fruit-trees that do not conform to the specifications herein set out for fruit-trees of the grade in which the fruit-trees to which the charge relates purport to be included—

- (a) Where the lack of conformity alleged is in respect of diameter, if he proves that at least 90 per cent. of the package or sub-package of fruit-trees to which the charge relates do not exceed or fall short of the maximum or minimum diameter, as the case may be, hereby prescribed for trees of the kind in question by more than $\frac{1}{16}$ in. :
- (b) Where the lack of conformity alleged is in respect of any other matter, if he proves that at least 95 per cent. of the package or sub-package of fruit-trees to which the charge relates comply in that respect with the standard hereby prescribed for trees of the kind in question.

18. All graded fruit-trees sold or removed from a nursery for sale shall be properly packed in such manner as to protect them from damage and to prevent them from drying out while in transit or while being exposed for sale.

19. Graded fruit-trees of different grades shall not be packed together in one package unless the trees comprising each grade are packed in a separate sub-package which shall bear a tag or label as hereinafter prescribed.

20. On every sale of fruit-trees from a nursery, whether such sale be made directly by the occupier of the nursery or by his agent, there shall be attached to every package or sub-package, as the case requires, a tag or label stating the grade of the trees contained in the package or sub-package.

21. On every sale of fruit-trees from a nursery, whether such sale be made directly by the occupier of the nursery or by his agent, there shall be delivered to the purchaser an invoice setting out the following particulars:—

- (a) The respective grades of the fruit-trees comprised in the sale and the respective dates on which they were last graded :
- (b) The varieties of the fruit-trees comprised in the sale :
- (c) The number of fruit-trees of each variety comprised in the sale :
- (d) In the case of fruit-trees packed in sub-packages in accordance with Regulation 19 hereof, the number of fruit-trees of each variety contained in each sub-package :
- (e) The name of the stock upon which the fruit-trees have been budded or grafted, and the name of the intermediate scion in every case where the fruit-trees have been double-worked :
- (f) The age of the growth made after the last bud or scion was inserted :

Provided that if the particulars referred to in paragraph (e) or in paragraph (f) of this regulation be not the same for all the fruit-trees to which the sale relates, then the different particulars shall be set out separately and the number of trees to which they respectively apply shall be stated, and the trees to which different particulars apply shall be packed in separate sub-packages and the particulars in question shall be set out in a tag or label attached to each respective sub-package.

22. If any purchaser of fruit-trees from any nursery is dissatisfied with the grading and/or condition of such trees, he may make complaint in writing to an Inspector appointed under the said Act regarding the grading and/or condition of such fruit-trees, and the Inspector shall forthwith proceed to investigate such complaint and shall report the matter to the Director of the Horticulture Division of the Department of Agriculture :

Provided that no complaint shall be investigated under this regulation unless such complaint is lodged with an Inspector in writing within seven days after the receipt by the purchaser of the fruit-trees the subject of the complaint.

23. Every occupier of a nursery commits a breach of these regulations, and is liable accordingly under section 18 of the said Act to a fine not exceeding £20, who—

- (a) Does or attempts to do any act in breach of these regulations ; or
- (b) Fails to observe or perform any duty or obligation imposed upon him by these regulations.

W. O. HARVEY,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 19th day of December, 1945.
These regulations are administered in the Department of Agriculture.