

Serial Number **1954/116**



**THE PLANT DISEASES REGULATIONS 1954**

C. W. M. NORRIE, Governor-General

**ORDER IN COUNCIL**

At the Government House at Wellington, this 21st day of July 1954

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL 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, hereby makes the following regulations.

**REGULATIONS**

*Preliminary*

1. (1) These regulations may be cited as the Plant Diseases Regulations 1954.

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

2. In these regulations, unless the context otherwise requires,—

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

“Director” means the Director of the Horticulture Division of the Department of Agriculture:

“Serious disease” means any of the diseases mentioned in the First Schedule to these regulations:

“Seriously diseased” means infected with a serious disease:

“Infected area” means any land or place declared by an Inspector pursuant to these regulations to be an infected area:

“Inspector” means an Inspector appointed under the Act:

“Minister” means the Minister of Agriculture:

The terms “fruit”, “orchard”, and “plant” shall have the meanings assigned to them by the Act.

### *Declaration of Infected Area*

3. (1) If an Inspector is satisfied that any serious disease is found on any orchard he may, by writing under his hand, declare that orchard or any part of that orchard, together with such other land within a radius of 1,000 yards of any part of that orchard as he thinks fit to include in the declaration, to be an infected area.

(2) Every such declaration shall, as regards any particular parcel of land, take effect on receipt by an occupier thereof of a notice in writing of the declaration given under the hand of an Inspector and shall continue to bind the land and all occupiers thereof, notwithstanding any change in the occupancy or ownership thereof after notice as aforesaid has been given.

4. Every occupier of land to whom notice has been given of a declaration made under subclause (1) of regulation 3 hereof shall forthwith communicate the notice to the owner of the land and every person having any estate or interest in the land so far as the name and address of the person is known to the occupier.

5. Upon an Inspector making any declaration under regulation 3 hereof, he shall forthwith notify the Director of the declaration, and the Director shall thereupon cause notification of the declaration to be published in the *Gazette* and in such newspapers circulating in the district where the serious disease is found as he thinks fit.

6. Every declaration of an infected area pursuant to these regulations shall particularly describe the area intended to be affected by the declaration.

7. Any declaration of an infected area made under these regulations may at any time, by writing under the hand of an Inspector, be wholly or partially revoked, and the revocation shall take effect upon notification thereof to the occupiers of the land in the area or upon publication of the instrument or a notification of the effect thereof in the *Gazette* or any newspaper.

8. Production of a copy of the *Gazette* in which is published notification of any declaration made under these regulations shall, until the contrary is proved, be sufficient evidence that the declaration was duly made and continues in force.

### *Measures of Eradication*

9. If an Inspector is satisfied that any serious disease is found on any land he may,—

- (a) By notice in or to the effect of the form No. 1 in the Second Schedule hereto delivered to the occupier of the land on which the disease is found or to the occupier of any other land within a radius of 1,000 yards of any part of that land, require that occupier to destroy or cause to be destroyed within the time specified in the notice such plants or portions of plants (including the fruit) on his said land or on any specified part thereof as may be specified in the notice:

- (b) By notice in or to the effect of the form No. 2 in the Second Schedule hereto delivered to any such occupier, require that occupier to treat or cause to be treated within the time specified in the notice such plants or portions of plants (including the fruit) on his said land or on any specified part thereof as may be specified in the notice.

10. If the occupier of any land to whom any notice is delivered pursuant to the provisions of regulation 9 hereof fails to comply with the requirements of that notice it shall be lawful for an Inspector to destroy or treat or cause to be destroyed or treated plants to which the notice relates, at the expense in all things of the occupier, and the cost of the destruction may be deducted from the amount of compensation payable for the destruction as hereinafter provided.

11. The occupier of any land on which any serious disease is found shall take such steps, whether remedial or precautionary, as may be required of him by an Inspector to render or preserve the said land thoroughly free from serious disease and from infection by serious disease. Such steps may include the disinfection or other treatment of all tools, implements, appliances, and every other substance, material, article, and thing which may have come into contact with any seriously diseased plant or any portion thereof in such manner as the Inspector shall require.

12. Every person employed in or about any land on which any serious disease is found or coming into contact with the soil of that land shall comply with the reasonable requirements of an Inspector given with a view to the prevention of the spread of serious disease, including requirements about changing, cleaning, and disinfecting outer clothing.

13. It shall be lawful for an Inspector in the exercise of the powers conferred by these regulations at all reasonable times to enter upon any land and into any building used for the storage of fruit or plants or for horticultural purposes.

#### *Removal of Plants*

14. No person shall, without the written consent of an Inspector and subject to such conditions as he thinks fit to impose, bring or remove or cause to be brought or removed any plant or any fruit or seed or other portion thereof—

- (a) From an infected area to any other land, whether an infected area or not; or
- (b) Into an infected area from any other land, whether an infected area or not; or
- (c) From any place or site within an infected area to any other place or site within the same infected area.

15. Nothing in these regulations shall be deemed to prohibit the taking or removal by an Inspector of any plant, or any fruit or seed or other portion thereof, which is properly wrapped for carriage by rail or by other means—

- (a) From an infected area to any place outside the infected area; or
  - (b) Through any infected area from any place outside the infected area to any other place outside the infected area—
- for special examination for the purpose of identifying disease or for any other purpose authorized in that behalf by the Director.

16. The occupier of any land within an infected area shall not cause or permit to be destroyed or otherwise disposed of any plant or fruit seed or portion thereof which is on his land and is affected or likely to be affected with the serious disease mentioned in the declaration as an infected area under regulation 3 hereof, except in compliance with regulation 9 hereof.

*Plant Diseases Advisory Committees*

17. (1) The Minister may from time to time, by notice under his hand published in the *Gazette*, appoint for the Dominion a committee to be known as "the [*Name of crop*] Diseases Advisory Committee".

(2) Each such committee shall consist of—

- (a) A person who shall be employed in the Public Service on the staff of the Department of Agriculture, who shall be Chairman of the Committee;
- (b) A person who shall be employed in the Public Service on the staff of the Department of Scientific and Industrial Research;
- (c) Three persons who shall be growers of any crop or plant affected by the serious disease for which the committee is appointed;
- (d) One representative of the Association, Board, Council, or other body, if any, engaged in producing or in promoting or encouraging the production of the crop or plant affected or likely to be affected by the serious disease for which the committee is appointed.

18. Except as provided in regulation 23 hereof (as regards the casting vote of the Chairman) and in regulation 27 hereof, members of a committee appointed pursuant to paragraph (a) or paragraph (b) of subclause (2) of regulation 17 hereof shall not be eligible to vote at any meeting of that committee.

19. Members shall hold office during the pleasure of the Minister.

20. Any meeting of a committee shall be held at such time and place as the committee or the Chairman or any other two members thereof may from time to time appoint.

21. At any meeting of a committee two members entitled to vote shall form a quorum.

22. In any case where the Chairman is incapacitated by illness, absence, or other cause from performing the duties of his office, he may appoint some other person (being an employee of the Public Service for the time being on the staff of the Department of Agriculture) as his deputy to act as Chairman during his incapacity, and any such deputy shall, while he acts as such, be deemed to be the Chairman of the committee.

23. At every meeting of a committee the Chairman, in the case of an equality of votes, shall have a casting vote, and a decision reached by voting as aforesaid shall be the decision of the committee.

24. The functions of each committee shall be, whenever requested by the Minister so to do, to advise the Minister as to any matter referred to the committee in relation to the eradication or the prevention of the spread within New Zealand of the serious disease for which the committee is appointed or to carry out any functions imposed on it by these regulations in respect of that disease.

25. The committee may from time to time, if it thinks fit, appoint any person to be a co-opted member of the committee and such co-opted member shall not be eligible to vote at any meeting of the committee but for all other purposes shall be deemed to be a member of the committee.

#### *Compensation*

26. (1) Where any plants or any crops growing on any land have been destroyed on account of serious disease after the coming into force of these regulations and pursuant to these regulations, every person having any estate or interest in or encumbrance or charge over the plants, crops, or land shall be entitled to compensation for their destruction to the extent and subject to the exceptions and conditions hereinafter prescribed.

(2) The said compensation shall be based as provided by regulation 27 hereof on an amount assessed as representing the loss (within the limits prescribed in regulation 27 hereof) which results from the destruction in respect of which the right to compensation arises.

27. (1) The amount of compensation payable under these regulations shall be the amount assessed by the appropriate committee where such a committee has been appointed and in other cases by two officers of the Department of Agriculture, but in no case shall the amount exceed, in the case of fruit or annual plants or the product of any plant destroyed, the cost of production up to the date of their destruction, and in the case of plants other than annuals destroyed, the value thereof, in either case as determined by officers of the Department of Agriculture.

(2) For the purposes of this regulation members of a committee appointed pursuant to paragraph (a) or paragraph (b) of subclause (2) of regulation 17 hereof shall have the right to vote.

28. In assessing an amount representing loss in respect of any plant or in discharging any other function under these regulations the committee may act on the personal knowledge of the members thereof and any information in the possession of members of the committee.

29. If any question arises as to whether any plants have been destroyed on account of serious disease, or pursuant to these regulations, the committee may decide the question, and the decision of the committee shall be final.

30. Forthwith after assessing an amount representing any loss in respect of plants under these regulations the committee shall furnish the Director and every owner and occupier of the land with full particulars of the amounts so assessed.

31. Notwithstanding anything hereinbefore contained, no compensation shall be payable under these regulations for plants growing on any land unless and until the measures ordered by an Inspector are being taken or have been carried out in respect of that land to the satisfaction of the Inspector.

32. (1) Where the applicant for compensation or the Crown is not satisfied with any assessment of compensation payable, either party may lodge an appeal in writing to an Appeal Committee at any time within fourteen days after he has been advised of the assessment. The Appeal Committee shall consist of—

- (a) An officer of the Treasury who shall be appointed by the Secretary of the Treasury;
- (b) An officer of the Department of Agriculture not previously concerned with the assessment who shall be appointed by the Director-General of Agriculture;
- (c) A person nominated by the organization deemed by the Director-General to represent the growers of the kind of crop affected.

(2) Any such appeal shall be in writing delivered to the Inspector for the locality in which the land of the owner or occupier is situated.

(3) The decision of any Appeal Committee shall be final and binding on all parties.

33. Application for compensation shall be made in writing to the Inspector for the locality in which the land of the owner or occupier is situated, and shall set out the name, address, and description of every person having any estate or interest in or encumbrance or charge over the land concerned.

34. Where more persons than one claim or appear to be entitled to compensation in respect of the destruction of plants on any land the proportion of compensation payable to each person shall be such sum as may be mutually agreed upon between them, or (failing agreement) as may be determined by a Court having jurisdiction in respect of the amount involved.

35. Where plants are destroyed pursuant to the Act or these regulations the whole of the compensation payable pursuant to regulation 27 hereof shall be paid as soon as practicable after the destruction, subject, however, to the provisions of regulation 31 hereof.

36. All payments of compensation shall be made out of money appropriated by Parliament for the purpose.

#### *Offences*

37. Every person shall act in breach of these regulations and shall be liable accordingly to a fine not exceeding £20 who—

- (a) Fails to observe or perform any duty or obligation directly or by implication placed upon him by these regulations; or
- (b) Does anything contrary to the provisions of these regulations; or
- (c) Obstructs or refuses to carry out any direction given by an Inspector acting upon the authority of these regulations; or
- (d) Knowingly makes any false or misleading statement in connection with any application for compensation under these regulations or in connection with any matter incidental thereto.

## SCHEDULES

## FIRST SCHEDULE

Reg. 2

## SERIOUS PLANT DISEASES

- Oriental fruit fly (*Dacus dorsalis*) and all other harmful fruit flies.  
 Argentine ant (*Iridomyrmex humilis*).  
 Colorado potato beetle (*Leptinotarsa decemlineata*).  
 Elm leaf beetle (*Galerucella xanthomelaena*).  
 Giant African snail (*Achatina fulica*).  
 Golden eelworm (*Heterodera rostochiensis*).  
 Japanese beetle (*Popillia japonica*).  
 Oriental fruit moth (*Cydia molesta*).  
 Purple scale (*Lepidosaphes beckii*).  
 Sweet potato weevil (*Cylas formicarius* and *Euscepes postfasciatus*).  
 Raspberry aphid (*Amphorophora rubi*).  
 Onion maggot (*Hylemyia antiqua*).  
 Bacterial bean blight (*Xanthomonas phaseoli*).  
 Brown rot (*Sclerotinia fructigena* and *Sclerotinia laxa*).  
 Bacterial wilt of maize (*Xanthomonas stewartii*).  
 Boil smut of maize (*Ustilago zaeae*).  
 Brown spot of maize (*Physoderma zaeae-maydis*).  
 Hop downy mildew (*Pseudoperonospora humuli*).  
 Pierce's disease (*Virus*).  
 Potato ring rot (*Corynebacterium sepe-donicum*).  
 Potato wart disease (*Synchytrium endobioticum*).  
 Tobacco blue mould (*Peronospora tabacina*).  
 Tobacco rattle (*Virus*).  
 Tobacco yellow dwarf (*Virus*).  
 Tobacco wild fire (*Pseudomonas tabaci*).  
 Flag smut of wheat (*Urocystis tritici*).

## SECOND SCHEDULE

Form No. 1

Reg. 9(a)

*The Plant Diseases Regulations 1954*

## NOTICE TO DESTROY

To [Name; Address]

TAKE notice that, in consequence of an inspection made on the ..... day of ..... 195... of the orchard (nursery or premises) occupied by ..... and situated at ....., the disease known as ..... has been found to exist therein, and, pursuant to regulation 9 of the Plant Diseases Regulations 1954, I hereby require you to destroy within [Days, hours, (time)] after service upon you of this notice those ..... on your land which I have identified in the following manner, viz., .....

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by section 18 of the Orchard and Garden Diseases Act 1928, the destruction of the said ..... may be effected at your expense.

Dated at ....., this ..... day of ..... 195.....

Inspector under the Orchard and Garden  
Diseases Act 1928.

SECOND SCHEDULE—*continued*

Form No. 2

*The Plant Diseases Regulations 1954*

Reg. 9(b)

## NOTICE TO TREAT PLANTS

To [Name; Address]

TAKE notice that, in consequence of an inspection made on the ..... day of ..... 19.... of the orchard (nursery or premises) occupied by ..... and situated at ....., the disease known as ..... has been found to exist therein, and, pursuant to paragraph (b) of regulation 9 of the Plant Diseases Regulations 1954, I hereby require you to carry out the treatment set out in the Schedule hereto within [Days, hours] after service upon you of this notice.

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by section 18 of the Orchard and Garden Diseases Act 1928, the treatment may be effected at your expense.

## SCHEDULE

Dated at ....., this ..... day of ..... 19....

Inspector under the Orchard and Garden  
Diseases Act 1928.

T. J. SHERRARD,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

[*This note is not part of the regulations, but is intended to indicate their general effect.*]

These regulations specify certain diseases as serious plant diseases, and prescribe measures to be taken for the eradication of the diseases where they occur. The regulations provide—

- (a) That areas may be declared as infected areas;
- (b) That owners or occupiers of land on or near which the diseases are found may be required to destroy or treat plants;
- (c) For compensation where plants are destroyed;
- (d) For restrictions on the removal of plants from land infected with the diseases;
- (e) For the setting up of advisory committees to advise the Minister in relation to the eradication or spread of the diseases, and to assess the amount of compensation payable;
- (f) For a right of appeal to a special Appeal Committee where either the grower or the Crown is not satisfied with the compensation assessment.

Issued under the Authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 July 1954.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 5684.)