

New Zealand.

ORCHARD AND GARDEN DISEASES.

1908, No. 138.

AN ACT to consolidate certain Enactments of the General Assembly relating to Orchard and Garden Diseases.

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

1. (1.) The Short Title of this Act is “The Orchard and Garden Diseases Act, 1908.” Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All Orders in Council, regulations, orders, special orders, notices, appointments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. In this Act, if not inconsistent with the context,—

“Disease” means any of the diseases named in the Second Schedule hereto, and includes any disease other than the diseases mentioned in the Third Schedule hereto which the Governor from time to time, by Order in Council gazetted, declares to be a disease within the meaning of this Act; and includes, but subject in every case to the provisions of the next succeeding section, any of the diseases named in the Third Schedule hereto: Interpretation.
1903, No. 67, sec. 2

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

“Infected” means infected with disease:

“Infected package” includes every case or other package in which any diseased plant or fruit is or has been contained or with which any such plant or fruit has come in contact:

“Minister” means the Minister of Agriculture:

“Occupier,” in the case of any orchard or land which is unoccupied or whose actual occupier is unknown or cannot be found, includes the owner:

“Orchard” means any land used for the purpose of orchard, garden, nursery, vinery, or vineyard:

“Plant” means any tree, flower, shrub, vegetable, or other vegetation.

Third Schedule
may be suspended
in any county.

1903, No. 67, sec. 3

3. (1.) The Council of any county may from time to time, by special order gazetted, declare that the Third Schedule hereto shall (in respect of all or any one or more of the diseases mentioned therein) be suspended within its jurisdiction.

(2.) In a county wherein “The Counties Act, 1908,” is suspended, or has never been in operation, a like declaration shall be made by the Minister, by notice in the *Gazette*, on the petition of a majority of the local authorities within the limits of the county.

(3.) Any such declaration may in like manner be rescinded, and thereupon the said Third Schedule shall again have operation within the limits of the county.

(4.) For all the purposes of this section a borough shall be deemed to be within the limits of the county within whose boundaries the borough is situate, and similarly in the case of a town district which is not part of the county.

Powers of Governor
for preventing
introduction of
diseased plants, &c.

Ibid, sec. 4

4. The Governor may from time to time, by Order in Council gazetted,—

(a.) Prohibit, absolutely or except in accordance with regulations under this Act,—

(i.) The introduction into New Zealand, either generally or from any specified colony, country, port, or place, of any plant, fruit, fungus, parasite, insect, or any other thing which in his opinion is likely to introduce any disease into New Zealand; or

(ii.) The bringing into any specified portion of New Zealand from any other portion or specified portion of New Zealand of any specified plant, fruit, fungus, parasite, insect, or other thing which in his opinion is diseased or is likely to spread disease:

(b.) Appoint any specified ports to be the only ports of entry for plants or fruit, or for any specified plant or fruit:

(c.) Appoint quarantine grounds where plants or fruit, and the packages containing the same or with which the same may have come in contact, may be detained for the purpose of being inspected, disinfected, destroyed, or otherwise disposed of:

- (d.) Extend the Second Schedule hereto by including therein any disease other than those mentioned therein.
5. The Governor may from time to time appoint such Inspectors and other officers, with such powers and functions, as he deems necessary in order to carry out the provisions of this Act.
6. The occupier of every orchard shall at all times do whatever is necessary in order to eradicate disease from such orchard and prevent the spread thereof.
7. The occupier of every orchard in which any disease appears shall, within forty-eight hours after first discovering or becoming aware of its presence, send written notice thereof to the Secretary for Agriculture, at Wellington.
8. (1.) Any Inspector or other authorised officer may at any time enter into any conveyance, or upon any orchard, land, or premises, or on board any ship, for the purpose of inspecting any plants or fruit, or the packages containing the same or with which the same may have come in contact, and shall have all such powers and authorities (including power to dig up plants, open packages, and otherwise) as he deems necessary for enabling him to enforce the provisions of this Act.
- (2.) If the Inspector or other officer declares any such plants, fruit, or packages to be diseased or infected with disease he shall give notice thereof to the owner or person in charge thereof, who shall forthwith take such measures and do such acts as are necessary in order to eradicate or prevent the spread of the disease.
- (3.) If such owner or person fails so to do to the satisfaction of the Inspector or other officer, such Inspector or other officer may do the same at the expense in all things of such owner or person, who nevertheless shall not thereby be relieved from his other liabilities under this Act.
- (4.) In the exercise of the powers conferred upon him by this section the Inspector or other officer may remove, treat, disinfect, destroy, or otherwise dispose of any such plants, fruit, or packages in such manner as he thinks fit.
9. (1.) Any plant, fruit, fungus, parasite, insect, or other thing introduced or attempted to be introduced into New Zealand from abroad, or brought or attempted to be brought into any portion of New Zealand from any other portion thereof, contrary to any Order in Council under this Act may, together with any package containing the same or with which the same may have come in contact, be seized by an Inspector or other authorised officer, or an officer of Customs, and be disinfected, destroyed, or otherwise disposed of as such Inspector or officer deems fit, at the expense of the owner or person in charge thereof.
- (2.) It shall be the duty of all officers of the Postal Department and of the Customs respectively to assist in carrying out the provisions of this section and in preventing the introduction into New Zealand or the bringing to any portion of New Zealand of anything contrary to any such Order, and for that purpose they may, in respect to anything so introduced or attempted to be introduced or brought, exercise all the powers conferred by "The Post and Telegraph Act, 1908," in the case of postal packets posted in breach of that Act, and by "The Customs Law Act, 1908," in the case of uncustomed or prohibited goods.

Other diseases may be included in Second Schedule.

Appointment of officers.
1903, No. 67, sec. 5

Eradication of disease.
Ibid, sec. 6

Occupier to give notice of any disease.
Ibid, sec. 7

Inspector may enter and give notice to eradicate disease.
Ibid, sec. 8

Plants, &c., unlawfully introduced may be destroyed.
Ibid, sec. 9

Postal officers and officers of Customs to assist herein.

Inspector may
employ assistants.
1903, No. 67, sec. 10

10. (1.) An Inspector or other authorised officer may employ such assistants as he deems necessary in carrying out the provisions of this Act, and may pay them such remuneration as the Minister deems reasonable.

Recovery of
expenses.

(2.) The owner, occupier, or other person through whose neglect, omission, or other default, or by reason of the infection of whose orchard, plants, fruit, or packages the expenses of such employment were incurred shall repay the same to the Inspector on demand; and in default of payment such expenses may be recovered as a debt due to the Crown.

Inspector may
employ force.
Ibid, sec. 11

11. For the purpose of making any entry or removal, or otherwise performing his duties under this Act, an Inspector or other authorised officer or assistant may, in case of resistance, use all necessary force.

Person obstructing
or hindering
Inspector commits
an offence.
Ibid, sec. 12

12. (1.) Every person commits an offence against this Act who directly or indirectly obstructs, hinders, or interrupts, or threatens, or assaults, or uses improper or abusive language to any Inspector or other authorised officer or assistant while in the performance of his duty under this Act.

(2.) Proceedings for the recovery of any fine for such offence, or the payment thereof, shall not be a bar to any action at law by any such Inspector or other authorised officer or assistant; but every such action may be commenced and proceeded with as if this Act had not been passed, any rule of law to the contrary notwithstanding.

Protection of
Inspectors.
Ibid, sec. 13

13. An Inspector or other authorised officer or assistant shall not be deemed to be a trespasser by reason of any entry or removal under this Act, or be liable for any damage occasioned in carrying out the provisions of this Act.

How notices may
be given.
Ibid, sec. 14

14. Any notice to be given to any occupier or other person by an Inspector or other authorised officer or assistant in the performance of his duties under this Act may be given either by delivering the same to such person or by leaving it at 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, then by affixing such notice on a conspicuous place on the land to which the notice relates.

Definition of
offences.
Ibid, sec. 15

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

- (a.) Sells or offers or exposes for sale or distributes in any manner any plant, fruit, or package which to his knowledge is diseased or infected; or (except under the direction of an Inspector or other authorised officer) brings or suffers the same to be brought upon, or removes or suffers the same to be removed from, his premises: or
- (b.) Sells or offers or exposes for sale or distributes in any manner any plant, fruit, or thing which to his knowledge has been introduced into New Zealand contrary to any Order in Council under this Act, or (except under the direction of an Inspector or other authorised officer) brings or suffers the same to be brought upon, or removes or suffers the same to be removed from, his premises: or
- (c.) Does or attempts to do any other act in breach of this Act or of any regulation or Order in Council thereunder: or

(d.) Fails to faithfully observe and perform any duty or obligation imposed on him by this Act or by any Order in Council or regulation thereunder :

Provided that it shall be lawful to sell or offer for sale in the Provincial District of Auckland, or convey from one part of the said provincial district to any other part thereof, fruit affected with codlin-moth to the extent of not more than five per centum.

16. Every person who commits an offence against this Act is liable to a fine not exceeding twenty pounds. Fine for offences.
1903, No. 67, sec. 16

17. All fines under this Act shall be recovered in a summary way under "The Justices of the Peace Act, 1908," before a Magistrate alone, and upon prosecution by an Inspector or some person authorised by the Minister in that behalf. Recovery of fines.
Ibid, sec. 17

18. (1.) All fines and other moneys recovered or received under this Act shall be paid into the Public Account and form part of the Consolidated Fund. Fines to be paid
into Public Account.
Ibid, sec. 18

(2.) All expenses incurred in the administration of this Act shall be paid out of moneys to be appropriated by Parliament for that purpose. Expenses of
administration.
Ibid, sec. 19

19. (1.) An action shall not be brought against an Inspector or other authorised officer or assistant acting in execution of this Act for anything done in pursuance thereof or under the authority thereof, unless such action is commenced within three months after the cause of action arose. Limitations of
actions against
Inspectors.
Ibid, sec. 20

(2.) The defendant in any such action may give this Act and any special matter in evidence.

20. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations— Regulations.
Ibid, sec. 21

(a.) Prescribing the manner in which diseased plants or fruit and infected packages shall be treated, cleansed, destroyed, or otherwise disposed of ;

(b.) Prescribing the conditions under which any package or case may be used more than once for the carriage of fruit or plants ;

(c.) Providing for the registration of such orchards as are nurseries, and the terms and conditions of such registration ;

(d.) Prescribing the matters in respect whereof fees shall be payable under this Act, fixing the amount of such fees, and the mode of the payment and recovery thereof ; and

(e.) Generally for any other purpose for which regulations are contemplated by this Act, or which he deems necessary in order to give full effect to this Act.

(2.) All such regulations shall, within fourteen days after the gazetting thereof, be laid before Parliament if sitting, or if not, then within fourteen days after the commencement of the next ensuing session.

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

1903, No. 67.—"The Orchard and Garden Pests Act, 1903."

Sections 2, 4.

1903, No. 67, First
Schedule.
Gazette, 1904,
p. 2983; 1906,
p. 2506; 1907,
p. 3382; 1908,
p. 269.

SECOND SCHEDULE.

ANTHRACNOSE or black-spot of orange (<i>Phoma citricarpa</i>).	Peach die-back (<i>Clasterosporium carpo- philum</i>).
Apple-maggot (<i>Trypeta pomonella</i>).	Peach-moth (<i>Anarsia lineatella</i>).
Apple-mildew (<i>Podosphæra leucotricha</i>).	Peach-root borer (<i>Samenoidea opalescens</i>).
Bitter pit.	Pear-blight, or fire-blight of the pear (<i>Bacillus amylovorus</i>).
Bitter rot (<i>Glomerella rufo-maculans</i>).	Pear-mite (<i>Eriophyes pyri</i>).
Black aphid (<i>Myzus cerasi</i>).	Pear-scab (<i>Fusicladium pyrinum</i>).
Canker (<i>Nectria cinnabarina</i>).	Pineapple fruit-fly (<i>Dacus xanthodes</i>).
Canker (<i>Nectria ditissima</i>).	Plum-aphid (<i>Aphis prunifoliæ</i>).
<i>Coniothecium chomatosporum</i> .	Potato bacteriosis (<i>Bacillus solanacearum</i>).
Crown-gill (<i>Dendrophagus globosus</i>).	Potato black-leg (<i>Bacillus phytophthorus</i>).
Current-leaf spot (<i>Septoria ribis</i>).	Potato dry rot (<i>Fusarium oxysporum</i>).
Early blight (<i>Alternaria solani</i>).	Potato-moth (<i>Lita solanella</i>).
Eelworm (<i>Tylenchus devastatrix</i>).	Potato rot, or Irish potato-blight (<i>Phy- tophthora infestans</i>).
Gooseberry-mildew (<i>Sphaerotheca mors-uvæ</i>).	Potato wet rot (<i>Bacillus</i> sp.).
Green peach-aphid (<i>Aphis persicæ</i>).	Queensland fruit-fly (<i>Tephrytes tryoni</i>).
<i>Laverna herellara</i> .	Rose-aphid (<i>Siphonophora rosæ</i>).
Mediterranean or West Australian fruit-fly (<i>Halterophora capitata</i>).	Thrips (<i>Euthrips fuscus</i>).
Melanose.	Thrips (<i>Euthrips pyri</i>).
Narcissus-fly (<i>Meredon equestris</i>).	Tomato-caterpillar (<i>Heliothis obsoleta</i>).
New Caledonian fruit-fly (<i>Dacus psidii</i>).	Vine-louse, or phylloxera (<i>Phylloxera vas- tatrix</i>).
New Hebrides fruit-fly (<i>Trypeta musæ</i>).	
Peach-curl (<i>Exoascus deformans</i>).	

SCALES.

<i>Antonina crawi</i> .	<i>Diaspis rosæ</i> (Rose scale).
<i>Aspidiotus camelliæ</i> (Camellia scale).	„ <i>pyricola</i> .
„ <i>coccineus</i> (Red scale).	<i>Eriococcus araucariæ</i> (Norfolk Island pine scale).
„ <i>cryptoxanthus</i> .	„ <i>coriaceous</i> (Blue-gum scale).
„ <i>ficus</i> (Fig scale).	„ <i>eucalypti</i> (Eucalyptus scale).
„ <i>lataniæ</i> .	<i>Eulecanium persicæ</i> (Soft peach scale).
„ <i>nerii</i> .	<i>Fiorinia camelliæ</i> .
„ <i>perniciosus</i> (San José scale).	<i>Icerya purchasi</i> (Cottony cushion scale).
„ <i>Rossi</i> (Ross's scale).	<i>Lecanium cerasarum</i> (Cherry scale).
<i>Astero lecanium variolosum</i> .	„ <i>depressum</i> .
<i>Chionaspis citri</i> (White scale).	„ <i>hemisphæricum</i> (Round scale).
„ <i>eugenicæ</i> .	„ <i>hesperidum</i> (Holly and ivy scale).
„ <i>furfurus</i> (Scurfy scale).	„ <i>longulum</i> .
„ <i>quercus</i> (Oak-tree scale).	„ <i>oleæ</i> (Olive scale).
<i>Dactylopius adonidum</i>	<i>Mytilaspis citricola</i> (Purple scale).
„ <i>bromiliæ</i>	<i>Parlatoria zizyphus</i> .
„ <i>citri</i>	<i>Pseudolecanium tokionis</i> .
„ <i>destructor</i>	<i>Pulvinaria camellicola</i> .
<i>Diaspis amygdali</i> (Almond scale).	

Sections 2, 3.

1903, No. 67, Second
Schedule.

THIRD SCHEDULE.

AMERICAN blight (<i>Schizoneura lanigera</i>).
Apple-scab (<i>Fusicladium dendriticum</i>).
Codlin-moth (<i>Carpocapsa pomonella</i>).
Mussel or oyster scale (<i>Mytilaspis pomorum</i>).
Red-mite (<i>Bryobia pratensis</i>).