

Rhinoceros Beetle Ordinance 1954

LAWS OF WESTERN SAMOA

RHINOCEROS BEETLE

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THE RHINOCEROS BEETLE ORDINANCE 1954

1954, No. 8

AN ORDINANCE to amend and consolidate certain enactments relating to the prevention of the spreading and to the eradication of the Rhinoceros Beetle.

[04 October 1954]

1. Short title and commencements - This Ordinance may be cited as the Rhinoceros Beetle Ordinance 1954 and shall come into force on the day appointed for the commencement thereof by Proclamation of the High Commissioner published in the *Western Samoa Gazette*.

2. Interpretation - In this Ordinance, unless the context otherwise requires:

"Beetle", where not inconsistent with the context, means coconut beetles ("oryctes rhinoceros") and larvae and eggs.

"Clear" in relation to any plant or vegetable matter, means to do any act which destroys that plant or vegetable matter.

"Director" means the officer of the Public Service holding the appointment of Director of Agriculture, Forests and Fisheries.

"Infested area" means any land or place declared by the Director pursuant to the provisions of this Ordinance or any regulations thereunder to be an infested area.

"Occupier", in relation to any land, means any person in actual occupation of the land and includes the owner of the land and any other person in receipt of the profits thereof, or any agent or trustee of an occupier of the land.

"Inspector" means any person under the control of the Director appointed to inspect plantations for the purposes of this Ordinance.

3. Eradication of beetles - (1) Every occupier of land shall at all times do whatever is necessary to eradicate beetles from such land and prevent the spread thereof.

(2) Every occupier of land on which beetles are found shall take such steps whether remedial or precautionary as may be required by the Director to:

(a) Effectively clear and keep clear that land of dead or rotting trees or palms (whether fallen or standing), vegetable rubbish, empty cocoa pods and coconut husks.

(b) Remove from that land and destroy all coconut logs, posts, fences, bridges or other structures of coconut logs as from time to time may be indicated by an Inspector.

4. Use of coconut logs for fencing or building an offence - Every person commits an offence against this Ordinance who without the written approval of the Director first had and obtained, uses for any fence, bridge, pigsty or any structure other than a Samoan fale any coconut logs or coconut wood.

5. Living coconut trees which are harbouring places for beetles - Where in the opinion of the Director or any Inspector acting under the authority of the Director any living coconut tree on any land constitutes a harbouring place for beetles the Director may by notice as hereinafter provided require the occupier of such land to fell such tree and burn or otherwise dispose of it to the satisfaction of an Inspector.

6. Sawdust and rubbish - Where in the opinion of the Director or any Inspector acting under the authority of the Director any sawdust pit or other deposit of refuse or rubbish on any land constitutes a breeding place for beetles the Director may by notice as hereinafter provided require the occupier of such land to cause such sawdust, refuse or rubbish to be burnt or otherwise disposed of to the satisfaction of the Director.

7. Notice of eradication - If an Inspector is satisfied that beetles are present on any land or that there exist on any land conditions which constitute a breeding or harbouring place for beetles he may:

(a) By notice in or to the effect of Form number one in the Schedule hereto delivered to the occupier of such land require that occupier to destroy or cause to be destroyed within the time

specified in the notice such plants, trees, palms, logs, sawdust, vegetable rubbish or refuse on such land or any specified part thereof as may be specified in the notice;

(b) By notice in or to the effect of the Form number 2 in the 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, trees, palms, logs, sawdust, vegetable rubbish or refuse or portions thereof on his said land or any specified part thereof as may be specified in the notice.

8. Measures of eradication - If the occupier of any land to whom any notice is delivered pursuant to section 7 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 the plants, trees, palms, logs, sawdust, vegetable rubbish or refuse to which the notice relates, at the expense in all things of the occupier and the cost of destruction may be deducted from the amount of compensation payable for the destruction as hereinafter provided.

9. Power of Director or Inspector to inspect - It shall be lawful for the Director or any Inspector in the exercise of the powers conferred by the provisions of this Ordinance at all reasonable times to enter upon any land whether enclosed or not and inspect that land for the presence of beetles or for the purpose of ascertaining whether there has been compliance with the requirements of this Ordinance.

10. Hindering or obstructing the Director - (1) Every person commits an offence against this Ordinance who obstructs or hinders the Director or any person duly employed or authorised by him in the exercise of any power or function conferred on him by this Ordinance or under any regulations thereunder.

(2) No proceedings for the recovery of any fine in respect of any such offence shall be a bar to an action at law by the Director or any person so authorised by him in respect of any Act as aforesaid but every such action shall be commenced and proceeded with as if no such proceedings had been taken under this Ordinance.

11. Penalty for impersonating Director - Every person shall be liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$200 or both such imprisonment and such fine who personates or falsely represents himself to be the Director under this Ordinance or falsely represents himself to be a person authorised by the Director.

12. Compensation - (1) Where any trees or plants growing on any land have been destroyed on account of their being the harbouring place for beetles after the coming into force of this Ordinance and pursuant to the provisions of this Ordinance, every person having any estate or interest in or encumbrance or charge over the trees or plants or land shall be entitled to compensation for their destruction to the extent and subject to the exception and condition hereinafter prescribed.

(2) The said compensation shall be based on an amount as representing the loss which results from the destruction in respect of which the right to compensation arises; but in no case shall any compensation be payable for the loss of any coconut tree destroyed when the Director supplies one germinated seedling nut in replacement of such destroyed tree.

(3) The compensation for loss in respect of any tree or plant or in respect of discharging any other function under this Ordinance shall be assessed and awarded in the same manner as

compensation for land taken under the Taking of Land Act 1964.

13. No compensation payable until provisions of Ordinance complied with -

Notwithstanding the foregoing provisions of this Ordinance no compensation shall be payable under this Ordinance for trees or plants growing on any land unless and until the measures ordered by the Director or an Inspector are being taken or have been carried out in respect of that land to the satisfaction of the Director.

14. Public land and customary land - (1) With the consent of the Head of State the Director or any Inspector authorised in writing by the Director may enter upon any public land or any customary land and take in respect thereof such measures and do thereon such work as may be necessary:

- (a) To clear that land of dead or rotting trees or palms (whether fallen or standing) vegetable rubbish or refuse;
- (b) To cut down and destroy any trees or plants which constitute a harbouring place for beetles.

(2) The Head of State may in his direction refuse his consent under this section or give his consent either unconditionally or upon or subject to such terms and conditions as he thinks fit.

(3) Where any measures are taken, or any work is done, under this section to the satisfaction of the Director, all costs, charges and expenses which the Head of State considers have been reasonably incurred in respect of the measure of work shall be defrayed out of money from time to time appropriated for the purposes by the Legislative Assembly.

15. Duties of local authorities - (1) Every District Authority constituted pursuant to the provisions of the District and Village Government Board Ordinance 1953 shall subject to the control of the Director be responsible for the administration of this Ordinance within its district.

(2) Any such Authority may from time to time appoint an Inspector or Inspectors for its district but unless such Inspectors are duly authorised in writing under the hand of the Director they shall not perform any of the functions or powers conferred by this Ordinance.

16. Regulations - (1) The Head of State, acting on the advice of Cabinet, may from time to time by notice published in the *Western Samoa Gazette* make all such regulations as may in his opinion be necessary or expedient to give full effect to the provisions of this Ordinance.

(2) Without limiting the power conferred on the Head of State by the last preceding subsection it is hereby declared that regulations not inconsistent with any Ordinance or other enactment may be made under this section for all or any of the following purposes:

- (a) Providing that any land on which beetles are found to be breeding together with any land adjoining thereto may be declared by the Director to be an infested area;
- (b) Prohibiting or restricting, except with the approval of the Director and upon or subject to any condition he may think fit to impose, the introduction into an infested area or removal from an infested area of any plant, fruit or timber which is likely to spread beetles.

(3) All such regulations shall be laid before the Legislative Assembly within 28 days after the date of the making thereof if the Assembly is then in session, and, if not, shall be laid before the Assembly within 28 days after the commencement of the next ensuing session.

17. General penalty for offences - (1) Every person commits an offence against this Ordinance who:

- (a) Fails to observe or perform any duty or obligations directly or by implication placed upon him by this Ordinance; or
- (b) Does anything contrary to the provisions of this Ordinance; or
- (c) Obstructs or refuses to carry out any direction given by the Director or 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 the Ordinance or in connection with any matter incidental thereto.

(2) Every person who commits an offence against this Ordinance for which no penalty is provided elsewhere than in this section shall be liable on conviction to a fine not exceeding \$100.

18. Repeal and savings - (1) The Beetle Ordinance 1921 and the Beetle Amendment Ordinance 1921 are hereby repealed.

(2) All Orders, regulations, appointment notices, instruments., and generally all acts of authority which originated under the enactments hereby repealed and are subsisting or in force at the commencement of this Ordinance shall enure for the purposes of this Ordinance as fully and effectually as if they had originated under the corresponding provisions of this Ordinance and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under any such enactment and pending or in progress at the commencement of this Ordinance, may be continued, completed and enforced under this Ordinance.

SCHEDULE

Section 7

FORM No. 1

RHINOCEROS BEETLE ORDINANCE 1954

NOTICE TO DESTROY

TO: (Name; Address).

TAKE NOTICE that in consequence of an inspection made on the day of 19 of the land (plantation or premises) occupied by and situated at, Rhinoceros Beetles have been found to exist therein or thereon and pursuant to section 7 of the Rhinoceros Beetle Ordinance 1954, I hereby require you to destroy within (days) 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 17 of the said Ordinance the destruction of the said may be effected at your expense.

Dated at this day of 19

Director of Agriculture, Forests & Fisheries

FORM No. 2

RHINOCEROS BEETLE ORDINANCE 1954

NOTICE TO TREAT PLANTS OR MATERIAL

TO: (Name; Address)

TAKE NOTICE that in consequence of an inspection made on the day of 19 of the land (plantation or premises) occupied by and situated at, Rhinoceros Beetles have been found to exist therein or thereon and pursuant to paragraph (b) of section 7 of the Rhinoceros Beetle Ordinance 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 17 of the said Ordinance the treatment may be effected at your expense.

Dated at this day of 19

Director of Agriculture, Forests & Fisheries

In the heading the word "First" was deleted before the word "Schedule" by section 14 (a) of the Reprint of Statutes (Miscellaneous Provisions) Act 1975.

The Rhinoceros Beetle Ordinance 1954 is administered in the Department of Agriculture,
Forests, and Fisheries