

RSNL1990 CHAPTER P-16

PLANT PROTECTION ACT

Amended:

1996 cR-10.1 s55; 2004 c36 s31

CHAPTER P-16

AN ACT RESPECTING THE PROTECTION OF PLANTS AND THE PREVENTION OF THE
SPREAD OF PESTS AND DISEASES DESTRUCTIVE TO VEGETATION

Short title

1. This Act may be cited as the *Plant Protection Act*.

1978 c49 s1

Definitions

2. In this Act

(a) "container" means a receptacle in which plants may be placed, stored, transported, offered for sale or sold;

(b) "infected or infested" means contaminated with a pest or so exposed to a pest that contamination can reasonably be expected to exist;

(c) "inspector" means a person appointed as an inspector under section 6;

(d) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;

(e) "nursery" means a place where plants other than flower, vegetable and field crop seeds and seed potatoes are grown, kept, packed, delivered or transported for sale to be used for ornamental, propagation or cropping purposes;

(f) "owner" includes the lessee, occupant or manager of a premise described;

(g) "pest" means an insect, plant or animal organism, virus, bacterium, disease or disease inciting agent causing or capable of causing injury or damage to a vegetable, a part, product or by-product of a vegetable or a plant material or that which constitutes a biological obstacle to the control of a pest; and

(h) "plant" includes members of the plant kingdom and a part or product of it where the part or product is held or used for reproductive purposes.

1978 c49 s2; 1979 c49 Sch B; 1989 c18 Sch B

Prohibition

3. Except as provided by this Act, a person shall not

(a) bring or cause to be brought into the province;

(b) transport from place to place within the province for a purpose except destruction under the direction of an inspector; or

(c) have, offer for exchange or sale, exchange or sell or otherwise dispose of,

a plant, container, soil, machinery, equipment or vehicle that is infected or infested with a pest.

1978 c49 s3

Certificate for plants

4. The minister may require that a person who brings a plant into the province from another province obtain a certificate signed by an official authorized by the government of that other province to issue the certificate showing that the plant is apparently free from pests.

1978 c49 s4

Duty of a person having pests

5. A person who suspects that a plant in his or her possession or charge or keeping is infected or infested by a pest shall

(a) immediately communicate in writing with the minister regarding the infection or infestation; and

(b) provide the minister with the particulars of the source or origin of the infection or infestation and its nature and other information that the person may be able to give.

1978 c49 s5

Appointment of inspectors

6. (1) The minister may appoint in the manner authorized by law as many inspectors as he or she considers advisable to carry out and enforce this Act and the regulations.

(2) An inspector appointed under subsection (1) may include a person employed in the province as an inspector or other officer under and for the carrying out of the *Pest Control Products Act* (Canada) or the *Plant Quarantine Act* (Canada).

1978 c49 s6

Inspector's powers

7. An inspector may at reasonable times so long as it is reasonably necessary to determine compliance with this Act enter land, a building, structure or other place or a train, aircraft, vehicle, vessel or other carrier on or in which the inspector believes on reasonable grounds that a pest may be present, and

(a) make the inspection and examination that the inspector thinks necessary and order that precautions against the spread of a pest be taken;

(b) inspect and examine plants grown in or brought into the province for sale or for shipment from the province and certify, where required, to a person that the plants are infected or infested with pests; and

(c) require a person to produce for inspection or for the purposes of obtaining copies or extracts, books, shipping bills, bills of lading, invoices or other documents.

1985 c11 s57

Search and seizure

8. (1) Where an inspector believes on reasonable grounds that a person has contravened this Act or regulations, the inspector may with a warrant issued under subsection (2) at a reasonable time enter upon land, a building, structure or other place or a train, aircraft,

vehicle, vessel or other carrier and may make the inspection or examination that the inspector thinks necessary and may, on instructions from the minister,

(a) order the land, building, structure or other place or the train, aircraft, vehicle, vessel or other carrier to be disinfected or treated against the pest or, as an inspector, disinfect or treat the place or carrier;

(b) order plants or containers infected or infested with a pest to be destroyed or, as an inspector, destroy the plants or containers;

(c) order that plants or containers referred to in paragraph (b) not be removed except to the place and under those conditions and for the purpose of the destruction of them or otherwise that the inspector may specify in the order; and

(d) require a person to produce for inspection or for the purposes of obtaining copies or extracts, books, shipping bills, bills of lading, invoices, or other documents.

(2) A Provincial Court judge who is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is on land, in a building, structure or other place or in a train, aircraft, vehicle, vessel or other carrier anything that there are reasonable grounds to believe will give evidence with respect to an offence under this Act may issue a warrant authorizing an inspector to examine and search the place or carrier and to order the disinfection, treatment, destruction or detention and to make those inquiries and copies of books, shipping bills, bills of lading, invoices or other documents that are considered necessary, subject to the conditions that may be specified in the warrant.

(3) The owner or person in charge of the place or carrier referred to in this section and section 7 and other persons found there shall give an inspector reasonable help to enable the inspector to carry out his or her duties and functions under this section and shall provide the information that the inspector may reasonably require.

1985 c11 s57; 2004 c36 s31

Inspector's report

9. Where an inspector orders or carries out the destruction of plants or containers in accordance with paragraph 8(1)(b), the inspector shall submit to the minister, within 14 days after the completion of the destruction, a written report containing particulars of the nature, quantity

and estimated value of the plants and containers that he or she has destroyed or ordered to be destroyed.

1978 c49 s8; 1985 c11 s57

Nursery certificate of inspection

10. (1) The minister may require the owner of a nursery to obtain a certificate of inspection from an inspector, who is authorized to give the certificate, certifying that the nursery has been examined and found to be apparently free from pests before sending out or permitting plants or containers to be removed from the nursery.

(2) A certificate issued under subsection (1) is valid for 1 year from the date of issue, or for a shorter period that may be stated in the certificate.

1978 c49 s9

Pests in a nursery

11. Where an inspector finds a pest on or in a plant or container in a nursery, he or she shall, on instructions from the minister, inform the owner of the nursery in writing of the existence of the pest and the owner of the nursery shall not permit a plant or container to be removed until the inspector notifies him or her in writing that it is safe in the public interest to permit the removal of plants or containers from the nursery.

1978 c49 s10

Scientific investigation

12. (1) For the purpose of scientific investigations, the minister may by a written permit exempt a person as he or she considers appropriate from the operation of sections 10 and 11.

(2) While acting under a permit issued under subsection (1), a person is not subject in respect of those sections to the penalties provided in this Act.

1978 c49 s11

Registration

13. (1) The minister may prescribe in the regulations that

(a) a person may not act as an agent, representative or salesperson of a person operating a nursery situated outside the province unless the person holds a valid and existing certificate of registration; and

(b) the owner of a nursery shall register the nursery with the minister and shall provide the minister with those particulars that may be prescribed in the regulations and on registration of the nursery, the minister shall issue a certificate of registration to the owner.

(2) The owner of a nursery shall display the certificate referred to in paragraph (1)(b) in a prominent place in the nursery.

1978 c49 s12

Regulations

14. The minister may, subject to the approval of the Lieutenant-Governor in Council, make regulations

(a) providing for the treatment and manner of treatment to be given to a plant, container, soil, machinery, equipment, vehicle, land or building to eradicate, control or prevent the spread of a pest;

(b) prescribing who may give the treatment referred to in paragraph (a);

(c) providing for the seizure, removal, detention, confiscation and destruction of a plant or container infected or infested or likely to be infected or infested with a pest;

(d) prescribing charges that the minister may make for the treatment, seizure, removal, confiscation and destruction of a plant or container infected or infested or likely to be infected or infested with a pest;

(e) providing for the compensation that the Lieutenant-Governor in Council on recommendation of the minister may pay on account of the destruction of plants or containers under this Act, the compensation not to exceed 2/3 of the value of the plants or containers destroyed;

- (f) providing for the quarantine of an area of the province for a period when the minister considers it necessary to control a pest;
- (g) prescribing the plants or a class of them that may or may not be planted in a quarantine area;
- (h) prescribing the containers or equipment that may or may not be brought into a quarantine area;
- (i) prescribing the containers, equipment or plants that may or may not be removed from a quarantine area;
- (j) providing for the designation of an infested area within a quarantine area and prescribing the conditions that warrant the designation and that are to apply to the designation;
- (k) prescribing the terms and conditions for the production and sale of seed potatoes;
- (l) providing, under subsection 13(1), for the issue of certificates of registration and prescribing the information that the minister may require before the certificates are issued;
- (m) [Rep. by 1996 cR-10.1 s56]
- (n) [Rep. by 1996 cR-10.1 s56]
- (o) [Rep. by 1996 cR-10.1 s56]
- (p) prescribing forms that may be necessary to effect the purposes of this Act; and
- (q) generally, to give effect to the purpose of this Act.

1978 c49 s13

Offence and penalty

15. A person who

- (a) contravenes this Act or the regulations or a certificate issued or order made or given under this Act;
- (b) fails to comply with or neglects to carry out or offers a hindrance to the carrying out of this Act or the regulations or of an order or direction made or given under this Act; or

(c) fails to comply with conditions attached to a certificate issued under this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for not more than 6 months or to both a fine and imprisonment.

1978 c49 s14

Forms and fees

16. (1) The minister may determine and establish the forms and information required under this Act.

(2) The minister may establish conditions and fees which he or she considers appropriate for the issue or renewal of a certificate under this Act.

(3) The minister may establish the expiry dates of certificates under this Act.

1996 cR-10.1 s55