

# PLANT AND FRUIT DISEASES ACT 1959

[Consolidated as at 23 March 2010  
on the authority of the Administrator  
and in accordance with  
the *Enactments Reprinting Act 1980*]

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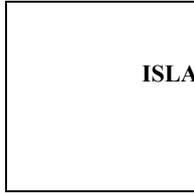
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NORFOLK



ISLAND

## Plant and Fruit Diseases Act 1959

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An Act relating to diseases in plants and fruit

### Short title

1. This Act may be cited as the *Plant and Fruit Diseases Act 1959*.

### Repeal

2. (1) The Acts specified in the Schedule are repealed.  
(2) [Amendment incorporated in relevant statute].

### Definitions

3. In this Act, unless the contrary intention appears —
  - “disease” means any disease affecting plants or fruit, and includes any member of the animal or plant kingdom that the executive member, by notice published in the Gazette under section 4, declares to be a disease for the purposes of this Act;
  - “diseased” means affected with disease;
  - “food refuse” includes fruit and vegetable scraps and peelings;
  - “fruit” means the edible product of any plant and includes the whole or any part of the seed, nut, skin, peel or shell of any fruit;
  - “goods” includes plant material, soil, hay, straw or other packing and all kinds of moveable property;
  - “infected” means infected with disease or pest;
  - “Inspector” means an Inspector appointed under subsection 5(1);
  - “noxious weed” means a noxious weed within the meaning of the *Noxious Weeds Act 1916*;



“occupier”, in relation to any land, plantation, premises, place, conveyance, vessel or aircraft, means the person in actual occupation, or if there is no such person, the lessee, licensee, tenant or person having the charge, control, management or use, of any land, plantation, premises, place, conveyance, vessel or aircraft, as the case may be;

“owner”, in relation to any land, plantation, premises, place, conveyance, vessel or aircraft, means the person entitled to the possession of that land, plantation, premises, place, conveyance, vessel or aircraft, as the case may be;

“pest” means any pest that is harmful to plants or fruit, and includes any member of the animal or plant kingdom that the executive member, by notice published in the Gazette under section 4, declares to be a pest for the purposes of this Act;

“plant” means any member or part (other than the fruit) of any member of the plant kingdom.

### **Diseases and pests**

4. The executive member may, by notice published in the Gazette —
- (a) declare any member of the animal or plant kingdom in any stage of development to be a disease for the purposes of this Act; and
  - (b) declare any member of the animal or plant kingdom in any stage of development to be a pest for the purposes of this Act.

### **Inspectors**

5. (1) The executive member may, by instrument in writing under his hand, appoint a person to be an Inspector for the purposes of this Act.
- (2) An Inspector may, with the approval of the executive member, employ such assistants as he deems necessary for carrying out the provisions of this Act.
- (3) A person shall not obstruct or hinder an Inspector in the exercise of his powers or the performance of his functions under this Act.

### **Powers of entry and search**

6. (1) An Inspector may enter any land, premises or conveyance upon or in which there are any plants, fruit or goods and the Inspector may search and inspect the land, premises or conveyance for the purpose of ascertaining whether any plants, fruit or goods are infected or whether any disease or pest exists on or in the land, premises or conveyance.

(2) Immediately upon the arrival of a vessel or aircraft at Norfolk Island, an Inspector shall board the vessel or aircraft and shall search and inspect the vessel or aircraft for the purpose of ascertaining whether any plants, fruit or goods are infected or whether any disease or pest exists on the vessel or aircraft.

(3) For the purposes of subsections 6(1) and 6(2), an Inspector may inspect plants, fruit or goods, take samples, open packages and do such other things as he considers necessary or expedient.

(4) If an Inspector is satisfied that any plant, fruit, goods, conveyance, vessel or aircraft is infected, he shall serve on the owner or person in charge notice in writing under his hand requiring him to take such measures or to do such acts as are specified in the notice to prevent the introduction or spread of any disease or pest.

#### **Prevention of spread of disease**

7. An Inspector may serve on the owner or occupier of any land, premises, conveyance, vessel or aircraft a notice requiring him to take such measures or to do such acts as are specified in the notice to prevent the introduction or spread of any disease or pest.

#### **Power to quarantine plants on land**

8. Where any disease or pest exists on any land or premises, an Inspector may serve on the owner or occupier a notice in writing under his hand requiring him to quarantine such plants, fruit or goods on that land or in those premises as are specified in the notice for such period as he thinks fit, and to take such measures or to do such acts as are specified in the notice to prevent the spread of the disease or pest.

#### **Time for compliance with notices**

9. A notice given under section 7 or 8 shall specify a time at which the action required by the notice shall be commenced and a time within which it shall be completed.

#### **Treatment of aircraft**

10. (1) Immediately upon the arrival of an aircraft at Norfolk Island, an Inspector shall treat the aircraft with insecticides.

(2) The treatment referred to in subsection 10(1) shall be in addition to, and not in substitution for, any measures that are taken in pursuance of sections 6 and 7.

#### **Removal of food refuse from vessel or aircraft**

11. (1) A person shall not remove food refuse from a vessel or aircraft calling at Norfolk Island except with the permission of an Inspector.

(2) A person who removes food refuse from a vessel or aircraft shall dispose of that food refuse by incineration or some other method approved by an Inspector.

(3) While a vessel or aircraft remains at Norfolk Island, all food refuse retained aboard the vessel or aircraft and all fruit and vegetables on the vessel or aircraft shall be kept in insect-proof containers.

#### **Power to destroy**

12. An Inspector may destroy, fumigate or otherwise dispose of any plants or fruit, or the debris of any plants or fruit, that are infected, or any coverings or packings in or with which any such plants or fruit have been contained or packed or any other plants or fruit or any other coverings or packings with which they have come in contact.

**Conditions of importation of plants or fruit**

**13. (1)** Subject to section 14, a person shall not import into Norfolk Island any plants or any garlic, ginger, apples, potatoes, onions, edible nuts or grain of wheat, unless —

- (a) he has obtained a permit in writing under the hand of the executive member allowing the importation of the plants or fruits; and
- (b) he has complied with the conditions subject to which the permit is issued.

**(2)** The conditions subject to which a permit for the importation of plants is issued are —

- (a) a condition that the plants —
  - (i) are free from soil;
  - (ii) are accompanied by an International Health Certificate issued by the Plant Quarantine Service of the exporting country;
  - (iii) have been fumigated in such a way as to destroy all insect pests before despatch from the exporting country, and the details of the fumigation are certified by the Plant Quarantine Service of that country; and
  - (iv) are packed in material other than straw and grass and in clean and new containers; and
- (b) such other conditions as the executive member determines.

**(2A)** The conditions subject to which a permit for the importation of fruit, being garlic, ginger, apples, potatoes, onions, edible nuts or grain of wheat, is issued are the conditions (if any) specified by the executive member in the permit, being conditions imposing requirements, restrictions or prohibitions on the person to whom the permit is issued designed to prevent the introduction into Norfolk Island of any disease or pest.

**(3)** A person shall not import into Norfolk Island any fruit other than garlic, ginger, apples, potatoes, onions, edible nuts or grain of wheat.

**(4)** Notwithstanding subsections (1) and (2A) a permit must not be issued to import apples other than apples grown in and imported from Australia and in accordance with Regulations.

**Importation of garden seeds, etc**

**14. (1)** Section 13 does not apply to the importation into Norfolk Island of —

- (a) any variety of garden seeds, not being bean seeds of the genus *Phaseolus*, that have been —
  - (i) harvested in Australia or New Zealand;
  - (ii) packed in Australia or New Zealand, as the case may be, by or for a person who is approved by the executive member, by notice published in the Gazette, being a person who is engaged in the production of garden seeds on a regular commercial basis; and
  - (iii) imported into Norfolk Island in the packages in which they were so packed;
- (b) preserved, frozen, dried or cooked foods prepared ready for cooking or eating;
- (c) plant products processed by grinding, crushing or rolling;
- (d) wood and wood products; and
- (e) clothing.

**(2)** In determining whether to approve a person for the purpose of subparagraph 14(1)(a)(ii), the executive member shall have regard to the precautions taken in connection with the growing, harvesting, treating and packaging of garden seeds by or for the person for the purpose of ensuring —

- (a) that garden seeds packed by or for that person are free from disease and unlikely to cause the introduction of any disease into Norfolk Island; and
- (b) that packages of seeds so packed are free from pests.

**Entry of pests**

**15.** A person shall not import any pest into Norfolk Island.

**Importation of soil**

**15A. (1)** A person shall not import soil into Norfolk Island.

**(2)** Where soil is attached to goods that are imported into Norfolk Island, or is brought into Norfolk Island with any such goods, the executive member may —

- (a) order the goods into quarantine;
- (b) require the goods to be treated for the purpose of removing soil from the goods; and
- (c) require soil removed from the goods, or brought into Norfolk Island with the goods, to be disposed of in such manner as he directs.

**Quarantine**

16. The executive member may order into quarantine —
- (a) any plants or goods that are infected, or, in his opinion, are likely to be infected, with any disease or pest, or that are accompanied by any noxious weed; or
  - (b) any fruit, other than fruit kept in insect-proof containers that are on a vessel or aircraft calling at Norfolk Island.

**Treatment in quarantine**

17. Any plants, goods or fruit ordered into quarantine may —
- (a) be destroyed by order of the executive member;
  - (b) be placed in quarantine at such places, and subject to such conditions, as the executive member approves; or
  - (c) be dealt with as the executive member directs.

**Release from quarantine**

18. A person shall not without the written consent of the executive member release from quarantine any plants, goods or fruit ordered into quarantine.

**Forfeiture of plants, etc**

19. (1) An Inspector or a person authorised in that behalf by the executive member may seize any plants, fruit or pests imported in contravention of this Act and shall deal with them as the executive member directs.

(2) A person shall not hinder or obstruct an Inspector or a person authorised under subsection 19(1) in the exercise of the powers conferred by subsection 19(1).

**False or misleading information**

19A. (1) A person providing false or misleading information in connection with the importation of anything subject to the provisions of this Act, commits an offence.

(2) Subsection (1) includes, but is not limited to, information presented to the Administrator, the Inspector, a person employed to assist the Inspector under subsection 5(2), a person authorised under subsection 19(1), or the executive member, whether in writing or by mark, stamp or inscription forms, labels, actions or otherwise.

**Fees**

20. (1) The Regulations may prescribe the fees payable in respect of the seizure, examination, detention, treatment in quarantine, disposal or destruction of any plants, fruit, goods or pests and in respect of any other matter or thing done or required to be done under this Act in relation to any plants, fruit, goods or pests.

(2) The owner, the person in charge or, in the case of plants, fruit, goods or pests that have been imported into Norfolk Island, the importer of the plants, fruit, goods or pests shall pay any fees payable in respect of those plants, fruit, goods or pests and those fees shall, in the case of plants, fruit or goods, be a charge on the plants, fruit or goods.

(3) Any fees payable under this Act or the Regulations are recoverable in the Court of Petty Sessions as a debt due to the Administration.

## Offences

21. A person who contravenes or fails to comply with —

- (a) a provision of this Act;
- (b) the requirements of a notice served on him, in pursuance of this Act; or
- (c) any condition determined by the executive member,

is guilty of an offence punishable, upon conviction, by imprisonment for 6 months or a fine of 20 penalty units or to both such fine and imprisonment.

## Regulations

22. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing penalties not exceeding 20 penalty units for offences against the Regulations.

(2) The Regulations may adopt, with such changes as may be considered necessary or appropriate, all or part of the terms and conditions in force in another State or Territory concerning the quarantine of fruit and plant material to be imported into that State or Territory.

Note: This could include, for example, adoption in whole or part of the *Plant Quarantine Manual – Tasmania* in force from time to time.

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## SCHEDULE

Section 2

### *Importation of Plants Act 1915*

*Importation of Plants Act 1917*

*Importation of Plants Act 1931*

*Importation of Plants Act 1933*

*Importation of Plants Act 1940*

*Plant and Fruit Diseases Act 1928*

*Plant and Fruit Diseases Act (No. 2) 1928*

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## NOTES

The *Plant and Fruit Diseases Act 1959* as shown in this consolidation comprises Act No. 5 of 1959 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Plant and Fruit Diseases Act 1959</i>	5, 1959	1.10.59	
<i>Plant and Fruit Diseases Act 1961</i>	5, 1961	20.7.61	
<i>Amendments Incorporation Act 1963</i>	2, 1963	28.3.63	
<i>Plant and Fruit Diseases Act 1964</i>	3, 1964	7.5.64	
<i>Ordinances Revision Act 1964</i>	6, 1964	30.6.64	6

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Plant and Fruit Diseases Act 1970</i>	6, 1970	3.12.70	
<i>Ordinances Citation Act 1976</i>	11, 1976	25.11.76	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision (Executive Members) Act 1980</i>	8, 1980	6.11.81	5
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>[Previously consolidated as at 21 April 1986]</i>			
<i>Plant and Fruit Diseases (Amendment) Act 2010</i>	5, 2010	19.03.10	

#### Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and substituted  
 inserted

Provisions affected	How affected
1	am 2, 1963; 6, 1970; 11, 1976
3	am 5, 1961; 6, 1970; 11, 1976; 8, 1980
4	am 5, 1961; 6, 1964; 8, 1980
5	am 8, 1980
6, 8	am 6, 1970
13	am 3, 1964; 6, 1970; 8, 1980; 5, 2010
14	am 5, 1961; 3, 1964; 6, 1964
	rs 6, 1970
	am 8, 1980
15A	ad 3, 1964
	am 8, 1980
16,17	am 6, 1970; 8, 1980
18	am 8, 1980
19	am 6, 1970; 8, 1980
19A	ad 5, 2010
20	am 6, 1964; 13, 1979
21	am 6, 1970; 8, 1980; 9, 1985
22	am 6, 1964; 6, 1970; 13, 1979; 9, 1985; 5, 2010

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