

Plant Diseases Regulation 2003

As at 3 September 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Plant Diseases Act 1924* . Minister for Agriculture and Fisheries

Explanatory note

The object of this Regulation is to remake, without substantial alteration (apart from the omission of certain clauses), the *Plant Diseases Regulation 1996* (**the 1996 Regulation**), which is to be repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989* . This Regulation deals with the following matters:

- (a) penalty notices for the purposes of section 19 of the Act (clause 5 and Schedule 2),
- (b) the form of notice to be given of the Minister's intention to destroy plants (clause 6 and Schedule 1),
- (c) other minor, consequential and ancillary matters (clauses 1-4 and 7).

The clauses of the 1996 Regulation that have been omitted from this Regulation prescribe the following:

- (a) the manner in which, and the time within which, a person aggrieved by a decision of the Minister under section 21 of the Act to destroy plants in an abandoned orchard or nursery might appeal to the Local Court against the decision,
- (b) the amount and form of the notice of the hearing of the appeal that is to be given by the Clerk of the Local Court to the appellant and to the Director-General of the Department of Agriculture.

Following amendments made to section 21 by the *Administrative Decisions Legislation Amendment Act 1997* , such an aggrieved person no longer has the right to appeal to the Local Court in respect of the decision but may, instead, apply to the Administrative Decisions Tribunal (within the period prescribed by or under the *Administrative Decisions Tribunal Act 1997*) for a review of the decision. This Regulation is made under the *Plant Diseases Act 1924* , including sections 19 (Penalty notices) and 28 (the general regulation-making power). This Regulation relates to matters of a machinery nature.

1 Name of Regulation

This Regulation is the *Plant Diseases Regulation 2003* .

2 Commencement

This Regulation commences on 1 September 2003.

Note: This Regulation replaces the *Plant Diseases Regulation 1996* which is repealed on 1 September 2003 by section 10 (2) of the *Subordinate Legislation Act 1989* .

3 Definitions

(1) In this Regulation:

the Act means the *Plant Diseases Act 1924* .

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

5 Penalty notice offences

For the purposes of section 19 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 2 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 2.

6 Form of notice of intention to destroy plants

The notice to be given by the Minister under section 21 of the Act is to be in Form 1.

7 Saving

Any act, matter or thing that, immediately before the repeal of the *Plant Diseases Regulation 1996*, was done for the purposes of, or had effect under, that Regulation is taken to be done for the purposes of, or has effect under, this Regulation.

Schedule 1 Forms

(Clause 3)

Form 1

(Clause 6)

NOTICE BY MINISTER OF INTENTION TO DESTROY PLANTS IN NEGLECTED OR ABANDONED ORCHARD OR NURSERY

(*Plant Diseases Act 1924*)

To of

IT HAS BEEN REPORTED to me by an inspector that an orchard/nursery* situated at of which you are the owner/occupier* is neglected/abandoned* and that a disease/pest* namely: is likely to be present in, or spread from, the orchard/nursery*.

TAKE NOTICE that I, the Minister for Agriculture and Fisheries, have decided to exercise the powers conferred on me by section 21 of the *Plant Diseases Act 1924* in connection with the orchard/nursery*

Date:

Minister for Agriculture and Fisheries

*Delete whichever does not apply.

Schedule 2 Penalty notice offences

(Clause 5)

1 1

1 2

on

26 (1) (a) of the Act

26 (1) (c) of the Act

26 (1) (d) of the Act

26 (1) (f) of the Act

Historical notes

Table of amending instruments *Plant Diseases Regulation 2003* published in Gazette No 128 of 22.8.2003, p 8033.