

Cocoa Disease Ordinance 1961

LAWS OF WESTERN SAMOA

COCOA DISEASE

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THE COCOA DISEASE ORDINANCE 1961

1961, No. 9

An Ordinance to make provision for the control of Cocoa Diseases

[12 October 1961]

1. Short title - This Ordinance may be cited as the Cocoa Disease Ordinance 1961.

See also the titles Cocoa Board and Cocoa Export.

As to enactments controlling imports, etc., see the note to s. 1 of the Shipping Act 1972.

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

"Cocoa plant material" means live plants of the cocoa tree and parts thereof including seeds, fruit, flowers, cuttings, rooted cuttings, budwood, or grafts:

"Cocoa waste" includes the pods of the cocoa from which the beans have been extracted, trimmings and other parts of the cocoa tree which are not usually marketed, or which are not intended to be marketed:

"Court" means the [Supreme Court of Western Samoa]

"Declared disease" or "disease" means any pathogen of virus, bacterial, or fungus origin declared to be a disease to which this Ordinance applies:

"Declared pest" or "pest" means any animal, rodent, or insect pest declared to be a pest to which this Ordinance applies:

"Director" means the Director of Agriculture, Forests, and Fisheries, and in respect of any powers conferred on the Director under this Ordinance, includes any person to whom the Director lawfully makes a delegation pursuant to the authority conferred on him by section 10 of the Agriculture, Forests, and Fisheries Ordinance 1959 of the powers exercisable by him under this Ordinance, but to the extent only of such delegation:

"Occupier", in relation to any land or premises, means and includes the owner, manager, lessee, or other person for the time being in charge thereof:

"Produce of the cocoa tree" includes beans, shells, and nibs and any other parts of the cocoa tree which are usually marketed:

"Tree" means the cocoa (or cacao) tree, and includes the branches, twigs, and any part thereof.

"Court": In this definition the reference to the Supreme Court of Western Samoa was substituted for a reference to the High Court of Western Samoa by s. 4 (3) (a) of the Existing Law Adjustment Ordinance 1961.

PART I PREVENTION OF DISEASES AND PESTS

3. Powers of Director - The Director may at any time and from time to time enter upon and inspect any land, building, or other place where any produce of the cocoa tree is prepared or otherwise dealt with for the purpose of ascertaining that the provisions of this Part of this Ordinance are being observed, may place identification marks on any trees, and, if he is of opinion that any tree is infected with or harbours any declared disease or declared pest, may serve any notice referred to in the next succeeding section.

Cf. No. 4, 1925, s. 3

4. Notices to treat or destroy trees and cocoa waste - Upon receipt of notice in writing referred to in the last preceding section the occupier shall within the period specified in such notice-

(a) Treat all infected trees on the land of the occupier in accordance with the instructions and requirements of the Director, as specified in such notice, and if ordered to do so by such notice, forthwith destroy the same by burning:

(b) Forthwith destroy by burning or treat in such other manner as directed by the Director by such notice, all trees on the land of the occupier which have been cut down and all cocoa waste lying or being on the land of the occupier.

Cf. No. 4, 1925, s. 4

5. Treatment of premises, etc. - If the Director is of opinion that any cocoa tree or cocoa waste or other material or thing stored in or about any building or place is infected with or harbours any disease or pest he may do all or any of the following things-

(a) He may take samples of any tree, cocoa waste, material, or thing for the purpose of bacteriological or other examination:

(b) He may fumigate or otherwise treat such building or place or any tree, cocoa waste, material, or thing which is or has been in or about such building or place:

(c) He may require the occupier of such building or place or the owner of such tree or cocoa waste or other material or thing to treat or otherwise deal with such building, place, tree, cocoa waste, material, or thing in such manner as may be authorised by regulations made under this Ordinance.

6. Appeals - (1) If the owner or occupier is dissatisfied with the decision of the Director as set out in any notice given under the foregoing provisions of this Part of this Ordinance or any requirement of the Director under paragraph (c) of the last preceding section, he may within 5 days after the receipt of such notice or the communicating to him of such requirement apply to the Court for an order calling on the Director to show cause why such notice or requirement should not be vacated or varied, and the Court shall thereupon hear such evidence as it considers relevant, and may make such order in the premises as to the Court shall seem just.

(2) The operation of any such notice or requirement shall be suspended until the application has been disposed of.

Cf. No. 4, 1925, s. 5

7. Offences - (1) It shall be an offence under this Part of this Ordinance-

(a) To remove or alter any identification mark placed on a tree by the Director:

(b) To neglect or fail to comply with the provisions of this Ordinance or any notice given by the Director in accordance therewith.

(2) It shall also be an offence under this Part of this Ordinance in contravention of any regulations made under this Ordinance-

(a) To scatter cocoa waste or allow cocoa waste to remain among trees:

(b) To leave in contact with rivers, streams, or surface water any trees or cocoa waste.

Cf. No. 4, 1925, s. 6

8. Penalty - Any person who is convicted of an offence under this Part of this Ordinance shall be liable to a fine not exceeding [\$100]. In addition to such penalty, any work ordered to be done pursuant to any notice may be carried out by the Director, and the cost of carrying out such work may be ordered by the Court to be paid by the occupier.

Cf. No. 4, 1925, s. 7

9. Service of notices - Any notice which may be served under the provisions of this Part of this Ordinance shall be deemed to have been duly served on and received by the occupier if it is given to him personally or posted addressed to him at his last known place of abode or business, or affixed in a conspicuous place upon the land of the occupier.

Cf. No. 4, 1925, s. 8

PART II RESTRICTIONS ON IMPORTATION

10. Importation of second-hand containers prohibited - No person shall import into Western Samoa any bag or other container in which any produce of the cocoa tree has been at any time packed.

11. Importation of cocoa beans - (1) No person shall import into Western Samoa from any country or place any produce or part of the cocoa tree except fermented dried cocoa beans or cocoa plant material in accordance with the provisions of the next succeeding section.

(2) No such beans shall be imported except with the prior approval of the Director, and no such beans shall be imported unless accompanied by a certificate of health issued in the country or place of origin and approved by the Director.

(3) On the importation of any such beans the Director may require that such beans be fumigated or otherwise treated as directed by him.

12. Restriction on importation of cocoa plant material - (1) No cocoa plant material shall be imported into Western Samoa except subject to the following conditions:

(a) Such material is required in Western Samoa for the purposes of scientific investigation or for propagation:

(b) The importation of such material shall be first approved in writing by the Director, which approval may be given subject to such conditions as he thinks necessary:

(c) Such material shall be consigned or addressed to the Director, and shall be received, examined, and dealt with by him in such manner as he directs:

(d) Any person who receives such material from the Director for the purposes of scientific investigation or for propagation shall deal with and use it in accordance with any directions given by the Director.

(2) If after examination of any such material imported into Western Samoa, the Director is of opinion that its use or distribution may result in the introduction of any disease or pest into Western Samoa, he may fumigate or otherwise treat such material, or may order it to be destroyed; and no person shall have any right to compensation or otherwise in respect of any such material so treated or destroyed.

(3) No plant material of the genus *Theobroma* shall be imported into Western Samoa unless accompanied by a certificate approved by the Director and issued by an authorised officer of the country of origin or the country where such planting material was quarantined, stating that such material does not originate from a country where diseases caused by swollen shoot virus complex or cushion gall occur and that the plant material was quarantined for an approved period at a place where such diseases do not exist.

As to fumigation, and quarantine generally, see titles referred to in the title Samoa Quarantine, and in particular the Fumigation (Import) Proclamation 1933 (see title Shipping).

13. Restriction on importation of plant material which may be host of cocoa diseases -

(1) No person shall import into Western Samoa from any country or place any live plant material of the classes mentioned in the next succeeding subsection unless the Director certifies that he is satisfied that no disease caused by the swollen shoot virus exists in such country or place.

(2) The live plant material referred to in the last preceding subsection is-

(a) All species of the family *Bombacaceae*;

(b) All species of the family *Sterculiaceae* (except cacao);

(c) Any other live plant material specified in regulations made under this Ordinance.

14. Application of existing enactments - Subject to the provisions of this Part of this Ordinance, the provisions of the Plants and Soil Importation (Disease Control) Ordinance 1950 and all enactments relating to Customs shall apply to the importation of any material or thing to which this Ordinance applies.

See also, as to the powers of the Director of Agriculture, Forests, and Fisheries to maintain the standard of primary produce exported, the Produce Export Ordinance 1961.

As to enactments controlling imports, etc., see the note to s. 1 of the Shipping Act 1972.

15. Offences - (1) Any person who imports, receives, deals with, or uses any material or thing to which this Part of this Ordinance applies in contravention of the provisions of this

Ordinance shall be liable on conviction to a fine not exceeding [\$500] or to imprisonment for a term not exceeding 2 years.

**PART III
REGULATIONS AND REPEALS**

16. Regulations - (1) [The Head of State, acting by and with the advice of Cabinet,] may from time to time to make such regulations as it considers necessary for any purpose for which regulations are contemplated by this Ordinance or which he considers necessary or expedient for giving full effect to the provisions of this Ordinance and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1) of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Declaring the diseases or pests referred to in this Ordinance and prescribing methods of treating such diseases or pests:
- (b) Prescribing standards of care in the maintenance of cocoa plantations and buildings in which any produce of the cocoa tree is prepared, treated, or stored:
- (c) Prohibiting the importation from any country or place of any material, substance, or thing whether referred to in this Ordinance or not, which is likely to infect cocoa trees with any disease or pest:
- (d) Prescribing fines not exceeding [\$100] for offences against the provisions of any regulation made under this Ordinance.

(3) It shall be the responsibility of the Minister to lay all regulations made under this section before the Legislative Assembly within 28 days after the making thereof if the Assembly is then in session; and, if not, to lay them before the Assembly within 28 days after the commencement of the next ensuing session.

In subs. (1) the reference to the Head of State acting by and with the advice of Cabinet has been substituted for a reference to the Council of State acting by and with the advice and consent of the Executive Council pursuant to s. 4 (1) (c) of the Existing Law Adjustment Ordinance 1961.

17. Repeals - The Cacao Diseases Ordinance 1925 is hereby repealed.

The Cocoa Diseases Ordinance 1961 is administered in the
Department of Agriculture, Forests, and Fisheries.