



ANNO PRIMO

GEORGII V REGIS.

A.D. 1910.

No. 1005.

An Act to amend "The Vine, Fruit, and Vegetable Protection Act, 1885," and for other purposes.

[Assented to, November 23rd, 1910.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited alone as "The Vine, Fruit, and Vegetable Protection Amendment Act, 1910"; and "The Vine, Fruit, and Vegetable Protection Act, 1885" (in this Act called "the principal Act"), and this Act may be cited together as "The Vine, Fruit, and Vegetable Protection Acts, 1885 and 1910."

Short title.
Act No. 345 of 1885.

2. This Act is incorporated with the principal Act, and the principal Act and this Act shall be read together as one Act.

Incorporation with
principal Act.

3. (1) From the passing of this Act all the powers and duties of the Commissioner of Crown Lands and Immigration under the principal Act shall be exercised and discharged by the Minister of Agriculture or the Minister of the Crown to whom the administration for the time being of the principal Act and this Act is committed by the Governor.

Act to be administered
by Minister of
Agriculture.

(2) The principal Act is hereby amended by substituting the word "Minister" for the word "Commissioner" wherever that word occurs.

(3) In the principal Act as so amended and in this Act the word "Minister" shall mean the Minister of Agriculture or the Minister of the Crown to whom the administration of the principal Act and this Act is committed as aforesaid.

4. In

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Power to appoint
chief inspector.

4. In addition to the power of appointment conferred by the principal Act, the Minister may from time to time appoint such person as he deems fit to be chief inspector under the principal Act; and the word "inspector" in the principal Act and this Act shall include the chief inspector.

Amendment of s. 3
of the principal Act.
Meaning of "tree"
and "plant."

5. Section 3 of the principal Act is hereby amended by striking out the last five lines of the section and substituting the following provision in lieu thereof, namely—

"Tree" and "plant" respectively, shall include the fruit or other product of the tree or plant and any or every part of the tree or plant and of the fruit or product thereof.

Amendment of s. 4
of principal Act.

6. Section 4 of the principal Act is hereby amended by adding the following paragraphs thereto:—

Power of Governor
to make
Proclamations.

(e) Prohibit the introduction into the State from other parts of the Commonwealth of Australia of any disease mentioned in the Proclamation:

Vic. Veg. Diseases
Act, 1896, s. 3 (2).

Cf. Com. Quarantine
Act, 1908, s. 13 (g).

S.A. Phylloxera Act,
1899, s. 44.

(f) Prohibit absolutely, or except under and subject to such conditions and restrictions as are prescribed by the Proclamation or by regulations made under the power conferred by this section, the removal from any part of the State defined in the Proclamation to any other part of the State whatever of such of the following things as are mentioned in the Proclamation, namely:—Any disease, insect, tree, plant, or other thing which, in his opinion, may be likely to spread any disease or insect in the State:

(g) Prohibit the growing or planting in any part or parts of the State defined in the Proclamation of any tree or plant mentioned in the Proclamation during such time as is also mentioned therein.

Amendment of s. 6 of
principal Act.

7. Section 6 of the principal Act is hereby amended by inserting therein the words "or disease" after the word "insect" wherever that word occurs in the said section.

Power to destroy
insects, plants, etc.,
removed or grown
contrary to
Proclamation.

8. Any disease, insect, tree, plant, or other thing—

(a) Removed or attempted to be removed from any part of the State to any other part of the State, or

Cf. principal Act, s. 5.

(b) Grown or planted in any part of the State

in contravention of any Proclamation made under the power conferred by section 4 of the principal Act as amended by this Act, or of any regulation made under the principal Act, may, together with any package or case containing the same, or any thing with which the same or any such package or case may have come into contact, be seized and destroyed by fire or otherwise by any person authorised by

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by the Minister in that behalf, either in respect of the specific matter or of such matters generally, without compensation to the owner or any other person.

9. Every person who does or attempts to do, or takes any part in the doing or attempting to do, anything in contravention of any Proclamation made under the power conferred by section 4 of the principal Act, as amended by this Act, and dealing with any of the matters mentioned in section 6 of this Act, or in contravention of any regulation made under the principal Act for carrying into effect any such Proclamation, shall be guilty of an offence against the principal Act, and shall be liable for every such offence to a penalty of not less than Five Pounds nor more than One Hundred Pounds, or to be imprisoned for any period not exceeding six months.

Penalty for contravention.

Cf. principal Act, s. 6.

10. Section 8 of the principal Act is hereby amended by adding the following words at the end thereof:—"and may erect on any such land such notices and land or other marks as he may think necessary or desirable for the purpose of indicating that the growing or planting of any tree or plant of the kind or kinds mentioned in such notices on or in the land, also mentioned therein, has been prohibited by Proclamation under this Act."

Amendment of s. 8.
Powers of inspectors.

11. Section 9 of the principal Act is hereby repealed, and the following section is hereby enacted in lieu thereof:—

Repeal of s. 9.

(1) Whenever an inspector is of opinion that any tree or plant is affected by any insect or disease he shall serve upon the occupier of the land where such tree or plant is found, or if the land is unoccupied, then upon the owner thereof, a notice, signed by such inspector, directing that, within a period of time stated in the notice, certain steps specified in the notice shall be taken for the destruction of the insect or the eradication of the disease: Provided that only such steps shall be specified in the notice as have been prescribed by regulation made under this Act.

Procedure for destruction or eradication of insect or disease.

Cf. N.Z. Act 67, 1903, s. 8.

W.A. Act 27, 1898, s. 8.

(2) The inspector shall, as soon as practicable after serving such notice, report that fact and the circumstances of the case to the Minister.

(3) If upon the report of an inspector it appears to the Minister that such notice has not been complied with within the time specified therein, or that, notwithstanding compliance therewith, the insect has not been destroyed or the disease has not been eradicated, the Minister may direct an inspector to take such steps as the inspector deems necessary for the destruction or eradication of the insect or disease, including, if the Minister so directs, the destruction of specified trees or plants, or trees or plants of a specified kind or kinds, or trees or plants generally on the land; and thereupon it shall be lawful for the inspector to act as so directed without any further or other authority.

Cf. principal Act, s. 9.

(4) The

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(4) The expenses incurred by an inspector in acting under subsection (3) hereof may be recovered by him from the occupier or owner of the land in any court of competent jurisdiction, or in the same way as penalties incurred under the principal Act are recoverable; but such occupier or owner shall not thereby be relieved from his other liabilities under this Act.

Off. Com. Quarantine
Act, 1908, s. 10.

(5) The Minister may, by authority in writing signed by him, authorise the chief inspector to exercise all the powers of the Minister under subsection (3) of this section as to any particular kind or kinds of insect or disease specified in such authority; and in such case, until such authority has been cancelled by the Minister, the said subsection shall, for the purpose of the exercise of such powers by the chief inspector, be read as if the words "the chief inspector" appeared therein wherever the words "the Minister" occur: Provided that nothing in this subsection or in such authority shall take away the powers of the Minister to act himself under the said subsection in any case.

(6) Any notice required to be served under this section upon an occupier or owner of any land shall be sufficiently served if delivered to such occupier or owner, or his agent, or left at or sent by post addressed to such occupier's or owner's last known place of abode; or, if it is not known to the inspector who is the occupier of the land, or the land is unoccupied and it is not known to the inspector who is the owner thereof, the notice shall be sufficiently served if affixed to some conspicuous object on the land.

(7) The Minister may, notwithstanding anything contained in this or the principal Act, hear and determine any appeal from the decision or direction of any Inspector.

Regulations.

12. The power of the Governor to make regulations under the principal Act shall include power to make all such regulations as may be necessary or convenient for carrying into effect the provisions of this Act or the provisions of the principal Act as amended by this Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

DAY H. BOSANQUET, Governor.