

# DISEASES OF PLANTS ORDINANCE 1934.<sup>(1)</sup>

## No. 30 of 1934.

### An Ordinance relating to Diseases of Plants.

**B**E it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1932*, as follows:—

1. This Ordinance may be cited as the *Diseases of Plants Ordinance 1934*.<sup>(1)</sup> Short title.
2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.<sup>(1)</sup> Commencement.
3. The *Plantation Diseases and Pests Ordinance 1916* is repealed. Repeal.
4. In this Ordinance, unless the contrary intention appears— Definitions.
  - “Director” means the Director of Agriculture;
  - “disease” means any disease or pest declared by the Administrator by proclamation<sup>(2)</sup> to be a disease affecting plants;
  - “diseased” means affected with a disease;
  - “Inspector” means an officer of the Public Service of the Territory appointed by the Director to be an Inspector of Plants;
  - “occupier” includes any person in actual occupation of premises, without regard to the title under which he occupies;
  - “owner” includes the person for the time being entitled to receive the rent of the premises in connection with which the expression is used, whether on his own ac-

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
8.2.1934	15.8.1934	9.5.1938 ( <i>N.G. Gaz.</i> of 30.4.1938)

(2) Pursuant to Section 4, the Administrator, by Diseases of Plants Proclamation No. 1, printed on p. 3978, declared the diseases and pests set out in the First, Second, and Third Schedules thereto to be diseases affecting plants.

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count or as manager for, or agent of, or trustee for, any other person, or the person who would be entitled to receive the rent if the premises were let at a rent, and includes a lessee or licensee under a lease or licence granted under the *Land Ordinance 1922-1933*<sup>(3)</sup> or the *Mining Ordinance 1928-1933*<sup>(4)</sup> or the *Miners' Homestead Leases Ordinance 1928-1933*<sup>(5)</sup> or under a lease granted by the British Military Administration during or since the war or under a lease granted before the war by the Fiscus of the Colony of German New Guinea or by the former German Government of the Territory or by the Imperial German Government or by any authority or officer of either of those Governments;

“pest” includes weed pest as well as insect pest;

“plants” means trees or plants and includes cuttings and slips of trees or plants and every part of every tree or plant and the fruit or product thereof;

“premises” includes messuages, buildings, lands, and hereditaments of every tenure and includes any vessel;

“this Ordinance” includes any regulations made under this Ordinance.

Powers of Director.

5.—(1.) The Director shall, under the Administrator, be charged with the administration of this Ordinance and may appoint any officer of the Public Service of the Territory to be an Inspector.

(2.) The Director shall, in addition to any powers conferred upon him by this Ordinance, have throughout the Territory the powers conferred by this Ordinance on an Inspector.

Power to enter premises.

6. For the purpose of carrying into effect the provisions of this Ordinance, an Inspector may enter and examine any premises at any time.

Interference &c. with officers.

7. Any person who—

- (a) gives, offers, or procures to be given, any bribe, recompense, or reward to any person to induce him in any way to neglect or not to perform his duty under this Ordinance; or
- (b) makes any collusive agreement with any person to neglect or not to perform his duty under this Ordinance; or
- (c) by threats, demands, or promises, attempts improperly to influence any person in the performance of his duty under this Ordinance; or

(3) Now the *Land Ordinance 1922-1941*.

(4) Now the *Mining Ordinance 1928-1940*.

(5) Now the *Miners' Homestead Leases Ordinance 1928-1938*.

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- (d) assaults, or by force molests, obstructs, or intimidates, any person in the performance of his duty under this Ordinance,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

8.—(1.) Any notice, order, or other document under this Ordinance required or authorized to be given or served to or upon any person may be served— Service of notices &c.

- (a) by delivering it to the person; or  
(b) by leaving it at his usual or last known place of abode; or  
(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode.

(2.) Any such document, if addressed to the owner or occupier of premises, may be served by delivering it or a true copy of it to some adult person on the premises or, if there is no such person on the premises who can be so served, by fixing it on some conspicuous part of the premises.

(3.) Any notice by this Ordinance required to be given to the owner or occupier of any premises may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

(4.) If there are more owners or occupiers than one, it shall be sufficient if the notice or order is served on any one of them and the name of any one of them is specified in the notice with the addition of the words "and others".

(5.) Non-service on the owner shall not affect the validity of service on the occupier; and non-service on the occupier shall not affect the validity of service on the owner.

9.—(1.) In all proceedings in which any notice, order, or other document has to be proved— Proof of notices, orders, or documents.

- (a) the defendant shall be deemed to have received notice to produce it; and  
(b) until the contrary is shown, it and service of it may be sufficiently proved by or on behalf of the complainant by the production of what purports to be a copy bearing what purports to be a certificate under the hand of the person authorised to issue the original that the copy is a true copy of the original and that the original was served on the date specified in the certificate.

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(2.) The validity of any notice, order, or other document, or of the service of it, shall not be affected by any error, misdescription, or irregularity which, in the opinion of the court, is not likely to mislead or which in fact does not mislead.

Simplification of proof of appointment.

10. In any prosecution or other proceeding under this Ordinance, proof shall not be required of the particular or general appointment of any person under this Ordinance.

Continued operation of notices and orders.

11. Any notice or order required under this Ordinance to be served on any owner or occupier shall, if due service of it has been once made on any owner or occupier, be binding on any person claiming by, from, or under such owner or occupier, and on any subsequent owner or occupier, to the same extent as if served on the last-mentioned owner or occupier, as the case may be.

References to owner or occupier.

12. Whenever in any proceeding under this Ordinance it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

Proof of ownership.

13.—(1.) In any proceeding under this Ordinance, evidence by the certificate signed by the Registrar of Titles that any person's name appears in the Register Book or Register of Administration Leases kept under the *Lands Registration Ordinance 1924-1933*<sup>(6)</sup> as the registered owner or lessee, as the case may be, of any premises, or by the certificate signed by the warden of any goldfield or mineral field that any person's name appears in the records of his office as the lessee or licensee, as the case may be, of any premises, shall (until the contrary is proved) be evidence that such person is, for the purposes of any proceeding under this Ordinance, the owner of the premises.

(2.) If the person appearing to be the owner of any premises is absent from the Territory or cannot, after reasonable inquiries, be found, any occupier or any agent or person advertising or notifying himself in any manner as authorised to deal with the premises in any way shall, for the purposes of any proceeding under this Ordinance, be deemed to be the owner:

Provided that—

- (a) the occupier, agent, or person may recover from the owner any penalty in respect of any conviction under this Ordinance or any expenses to which he has been put or any sums of money or costs which he has expended in and upon the premises pursuant to this Ordinance, whether under compulsion of legal process or not; and

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(6) Now the *Lands Registration Ordinance 1924-1939*.

(b) nothing herein shall prejudice, exclude, or take away any other methods of proof.

14.—(1.) The Administrator in Council may make regulations,<sup>(7)</sup> not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for the prevention of disease and for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

Power to make regulations.

- (a) the inspection of plants;
- (b) the prevention of the spread of any disease;
- (c) the treatment of diseased plants;
- (d) the destruction of diseased plants;
- (e) measures for the prevention or destruction of pests; and
- (f) the imposition of penalties not exceeding One hundred pounds or imprisonment for six months for an offence against the regulations; and, where the offence is a continuing offence, a penalty not exceeding Five pounds for every day during which the offence continues.

(2.) Regulations may be of general application or may be limited to a particular area or restricted in their operation to any specified class of persons.

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(7) See the *Diseases of Plants Regulations*, printed on p. 3974.