

AG302

PLANT DISEASES ACT 1914

PLANT DISEASES AMENDMENT REGULATIONS (NO. 7) 1994

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Plant Diseases Amendment Regulations (No. 7) 1994*.

Commencement

2. These regulations come into operation on the day on which sections 13 and 17 of the *Plant Diseases Amendment Act 1993* come into operation.

Principal regulations

3. In these regulations the *Plant Diseases Regulations 1989** are referred to as the principal regulations.

[* *Published in the Gazette of 30 June 1989 at pp. 1980-93.*
For amendments to 14 September 1994 see 1993 Index to Legislation of Western Australia, Table 4, p. 205 and Gazette of 24 June and 2 September 1994.]

Part 4A inserted

4. The principal regulations are amended after regulation 19G by inserting the following Part —

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Part 4A — Private inspection and treatment premises

Division 1 — Prescribed standards (s. 22B (1))

Premises for inspection of imported potential carriers

19H. For the purposes of section 22B (1) (a) of the Act, premises for the inspection of imported potential carriers must have —

- (a) a secure quarantine area of a size approved as suitable for the type and volume of the imports to be stored;
- (b) a weather-proof inspection area with natural or artificial light of not less than 600 lux intensity; and
- (c) a white topped inspection bench of a size approved as suitable for the type and nature of the imports to be inspected.

Premises for treatment of potential carriers

19I. For the purposes of section 22B (1) (a) of the Act, premises for the treatment of any potential carriers must have —

- (a) for fumigation —
 - (i) approved facilities and equipment to maintain and monitor gas at the appropriate concentrations;
 - (ii) approved chemical heating facilities;
 - (iii) approved fans to disperse and circulate any chemicals; and
 - (iv) a secure quarantine area;
- (b) for spraying —
 - (i) approved spraying and safety equipment; and
 - (ii) a secure quarantine area; and
- (c) for disinfestation treatments —
 - (i) if the disinfestation treatment is cold disinfestation, approved facilities which are adequate to keep the temperature within the required range, and approved temperature monitoring equipment;

- (ii) for all types of disinfestation treatments, facilities and equipment approved as suitable for the type of treatment carried out; and
- (iii) a secure quarantine area.

Premises for cleaning of potential carriers

19J. For the purposes of section 22B (1) (a) of the Act, premises for carrying out the cleaning of any potential carriers must have —

- (a) a secure quarantine and cleaning area of a size approved as suitable for the cleaning to be carried out, which is constructed of concrete or bitumen and which drains to an approved sump; and
- (b) an approved sump which is free draining to a below ground holding tank and is connected to deep sewerage, a leach drain or a secure settling pond.

Premises where potential carriers are handled for experimental or laboratory purposes

19K. For the purposes of section 22B (1) (a) of the Act, premises where potential carriers are handled for experimental or laboratory purposes must have —

- (a) approved facilities to dispose of residues and discarded containers; and
- (b) a secure quarantine and testing area.

Premises registered as a propagation house for tissue cultured apple/grape plants

19L. (1) For the purposes of section 22B (1) (a) of the Act, premises registered as a propagation house for tissue cultured apple/grape plants must have —

- (a) secure quarantine facilities allowing apple/grape plants to be kept separate from other apple/grape material;
- (b) for grape plants, facilities to maintain the humidity in which the grape plants are kept.

(2) For the purposes of section 22B (1) (b) of the Act, the person in whose name the propagation house is registered shall ensure —

- (a) that a register recording the names and addresses of purchasers of imported apple or grape plants is established and maintained; and
- (b) that grape plants are kept or stored in an atmosphere of at least 95% humidity.

Premises for quarantine clearance

19M. (1) For the purposes of section 22B (1) (a) of the Act, premises for the disposal of waste potential carriers, and for the quarantine clearance of passengers and crew, arriving in Western Australia by air, sea, rail or road must have —

- (a) an approved quarantine area and white topped bench for the inspection of baggage, with lighting of not less than 600 lux intensity;

- (b) signs of an approved type and number to advise persons that they are subject to quarantine restrictions; and
- (c) approved facilities for the disposal of waste potential carriers.

(2) For the purposes of section 22B (1) (b) of the Act, the person in whose name the quarantine premises are registered shall ensure that, prior to arrival, advice is given to persons who are about to enter Western Australia that those persons are subject to Western Australia's quarantine laws, and that their baggage and other possessions may be subject to inspection when they arrive in Western Australia.

*Division 2 — Manner of conduct in relation to
registered premises (s. 22B (1) (b))*

Conduct in relation to registered premises

19N. For the purposes of section 22B (1) (b) of the Act, the person in whose name private treatment and inspection premises are registered shall ensure that, in relation to those registered premises, —

- (a) the public does not have access to inspection and quarantine areas without permission of the registered person or nominated staff members;
- (b) access to a propagation house is restricted to nominated staff members;
- (c) a person is nominated to control the inspection or quarantine area, or both, and that the nominated person is an approved person;
- (d) potential carriers under quarantine are physically separated from other goods;
- (e) any instructions issued by an inspector are complied with as soon as is practicable;
- (f) the Director General is notified immediately, in writing, of any changes in ownership of, or planned modifications to, the premises;
- (g) accurate records are kept of quarantined potential carriers which have come into, been treated, etc. at or left, the premises;
- (h) staff receive training of an approved type;
- (i) staff are appropriately licensed to use fumigants or treatments which are in fact used, and facilities for the use of those fumigants or treatments are, where necessary under any other written law, approved for those purposes by the appropriate authorities; and
- (j) fungicides with activity against apple scab or downy mildew are not applied in a propagation house, and shall give a written undertaking not to apply any such fungicide in any propagation house registered in that person's name.

Division 3 — Application for registration (s. 22B (2))

Form of application for registration

19O. For the purposes of section 22B (2) (a) of the Act, an application for registration of private inspection and treatment premises must include the following prescribed details, to be completed by the owner or occupier—

- (a) the name of the applicant;
- (b) the address and the postal address of the premises;
- (c) the telephone number and facsimile number of the premises;
- (d) the functions for which the registration is sought;
- (e) the proposed imports;
- (f) the name of a person who is to be nominated as responsible for the operation of the quarantine area or the inspection area, or both;
- (g) acknowledgment by the applicant that —
 - (i) it is understood that if registration is granted, it is subject to the prescribed standards and prescribed manner of conduct being met for the duration of the registration, and that an inspector may at any time during the registration period inspect the premises to ensure that the standards and manner of conduct are being met and maintained; and
 - (ii) the Director General may cancel the registration if the standards and manner of conduct are not being met and maintained;
- and
- (h) the signature of the applicant and the date of the application.

Prescribed application fee

19P. (1) For the purposes of section 22B (2) (b) of the Act and subject to subregulation (2), the annual fee for —

- (a) an application for registration of private treatment and inspection premises is \$76; and
- (b) an application to renew an existing registration of private treatment and inspection premises is \$38.

(2) If private treatment and inspection premises which are the subject of an application for registration are already registered by the Australian Quarantine and Inspection Service of the Commonwealth for the purposes of similar overseas quarantine functions, the application fee in subregulation (1) (a) is \$38.

Regulation 20B inserted

5. The principal regulations are amended after regulation 20A by inserting the following regulations —

“

Infringement notices

20B. (1) The offences described in Schedule 8 are prescribed for the purposes of section 35 of the Act and the amount appearing in the final column of that Schedule, directly opposite an offence, is the prescribed penalty in respect of that offence, if dealt with under that section.

(2) Form No. 10 in Schedule 3 is prescribed, under section 35 (3) of the Act, as the form of an infringement notice.

(3) Form No. 11 in Schedule 3 is prescribed, under section 35 (7) of the Act, as the form of a notice of withdrawal of an infringement notice.

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Schedule 3 amended

6. Schedule 3 to the principal regulations is amended after form 9 by adding the following forms —

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FORM 10

[section 35 (3),
regulation 20B (2)]

PLANT DISEASES ACT 1914**INFRINGEMENT NOTICE**

Given by
(Authorized Person)

on 19
(Date)

No

1. To (name)
of (address)
2. It is alleged that at about am/pm on the day
of
19, you committed an offence against
section / regulation in that you
.....
3. If you do not wish to have a complaint of the alleged offence
heard and determined by a court, you may pay the modified
penalty of \$ within 28 days after the giving of this
notice.
4. Payment may be made by either posting, or personally
giving, this form and the amount of the modified penalty
specified in item 3 to the Accountant, Department of
Agriculture, 3 Baron-Hay Court, South Perth WA 6151.

.....
(Signature of Authorized Person)

FORM 11

[section 35 (7),
regulation 20B (3)]

PLANT DISEASES ACT 1914**WITHDRAWAL OF INFRINGEMENT NOTICE**

To (name)
of (address)

Infringement Notice No given to you on the
day of 19 for the alleged
contravention of section / regulation is hereby withdrawn.

.....
Authorized Person

..... 19
(Date)

”

Schedule 8 added

7. After Schedule 7 to the principal regulations the following Schedule is added —

“

Schedule 8			[Reg. 20B]
Provision Creating Offence	Nature of Offence	Penalty \$	
<i>Plant Diseases Act 1914</i>			
1. Section 11 (1)	Failure to carry out prescribed steps and measures to eradicate diseases	200	
2. Section 12 (3)	Failure to carry out prescribed steps and measures to eradicate diseases in a declared infected area	150	
3. Section 13 (2)	Failure to stop a conveyance or vessel when required to do so by an inspector	75	
4. Section 14 (3)	Failure to comply with a requisition to eradicate disease	200	
5. Section 34	Any other offence under the Act for which a penalty is not specified (other than in section 34) — for a natural person: For a body corporate:	200 500	
<i>Plant Diseases Regulations 1989</i>			
6. Regulation 4 (2)	Importing a potential carrier in contravention of Scheduled conditions	150	
7. Regulation 6 (2)	Failure to present a specified potential carrier, being imported, for inspection	75	
8. Regulation 7 (2)	Removal or unpacking a potential carrier without permission	150	
9. Regulation 8 (1)	Transporting imported carriers in used or not approved containers, or containers which do not bear the required details on the label	75	
10. Regulation 11 (3)	Failing to stop or follow directions on reaching a warning sign	75	
11. Regulation 12	Failing to follow the order of an inspector to stop at or near a warning sign	75	
12. Regulation 13	Damaging a warning sign	75	
13. Regulation 14 (2)	Contravention of a Movement and Quarantine notice	200	
14. Regulation 14 (3)	Removal of a detained conveyance, vessel or consignment without permission	200	

15.	Regulation 16 (2)	Failure to carry out treatment or controls to eradicate diseases	200
16.	Regulation 19 (4)	Failure to comply with Schedule 4A, Part 1 (steps and measures to eradicate, etc., Potato Cyst Nematode under section 11 of the Act)	200
17.	Regulation 19 (6)	Failure to comply with Schedule 4A, Part 1, clause 10 (steps and measures on an associated orchard to eradicate, etc., Potato Cyst Nematode under section 11 of the Act)	150
18.	Regulation 19 (9)	Failure to comply with Schedule 4A, Part 2 (steps and measures to eradicate, etc., Potato Cyst Nematode under section 12 of the Act)	150
19.	Regulation 19A (3)	Failure to comply with Schedule 4A, Part 3 (steps and measures to eradicate, etc., disease)	150
20.	Regulation 19B (4)	Failure to comply with Schedule 4B, Part 1 (steps and measures to eradicate, etc., Apple Scab under section 11 of the Act)	200
21.	Regulation 19B (7)	Failure to comply with Schedule 4B, Part 2 (steps and measures to eradicate, etc., Apple Scab under section 12 of the Act)	150
22.	Regulation 19C (3)	Failure to comply with Schedule 4B, Part 3 (steps and measures by persons referred to in regulation 19C to eradicate, etc., disease)	150
23.	Regulation 19D (3)	Failure to comply with Schedule 4B, Part 4 (steps and measures by persons referred to in regulation 19D to eradicate, etc., disease)	200
24.	Regulation 19E (4)	Failure to comply with Schedule 4C, Part 1 (steps and measures to eradicate, etc., Codling Moth under section 11 of the Act)	200
25.	Regulation 19E (7)	Failure to comply with Schedule 4C, Part 2 (steps and measures to eradicate, etc., Codling Moth under section 12 of the Act)	150
26.	Regulation 19F (3)	Failure to comply with Schedule 4C, Part 3 (steps and measures by persons referred to in regulation 19F to eradicate, etc., disease)	150

By His Excellency's Command,

M C WAUCHOPE, Clerk of the Council
Dated 27 September 1994