

Reprinted under the
Reprints Act 1984 as
at 25 September 1991

WESTERN AUSTRALIA

PLANT DISEASES ACT 1914

ARRANGEMENT

Sec.		Page
1.	Short title and commencement	1
2.	Repeal	1
4.	Interpretation	2
5.	Purposes of this Act	3
6A.	Inspector's powers of detention	4
7.	Appointment of officers	4
9.	Fruit Fly Eradication Fund	4
10.	Notice to be given of appearance of disease	5
11.	Obligation to carry out treatment for plant diseases	5
12.	Minister may declare certain areas to be infected	6
12A.	Power to demand vote for a compulsory fruit fly foliage baiting scheme	7
12B.	Vote of occupiers of orchards how taken	8
12C.	Power, under certain circumstances to appoint a committee	8
12CA.	Regulations as to polls and notification of result	15
12CB.	Powers of Minister to settle disputes, etc.	15
12D.	Frequency of polls	16
12E.	Dissolution of scheme in a district	16
12F.	Application of <i>Financial Administration and Audit Act 1985</i>	16

Plant Diseases Act 1914

13.	Power of entry and search	17
14.	Steps to be taken by inspector when orchard infected	17
15.	Declaration of infected places	18
16.	Power to order infected things to be dealt with so as to eradicate disease	19
17.	Power to destroy infected plants, covering, etc.	19
18.	Power to require owner or occupier of orchard to take steps to prevent spread of disease	19
19.	Prunings to be destroyed	20
20.	Young plants for sale not to be grown near trees in bearing	20
21.	Power to require information	21
22.	Power to destroy plants in abandoned orchards	21
23.	Powers to prevent introduction and spread of disease	22
24.	Recovery of expenses	24
25.	Payment for work done as between owner and occupier	24
26.	Penalty if owner or occupier hinders the other	25
27.	Employment of assistants	25
28.	Use of force in case of resistance	25
29.	Persons obstructing officers	26
30.	Officers not to be trespassers	26
31.	Notice to be given in writing	26
32.	Persons not entitled to compensation	27
32A.	Removal of plants from quarantine prohibited	27
33.	Offences	27
34.	Penalties	28
35A.	Liability of directors	29
35B.	Liability of principal for acts of agent	30
35C.	Liability of employer for offence of employee	31
36.	Onus of proof	31
37.	Proof of knowledge	31
38.	Proof of ownership or occupancy	32
39.	Regulations	33
40.	Judicial notice to be taken of regulations and proclamations	35
	NOTES	36

Reprinted under the
Reprints Act 1984 as
at 25 September 1991

WESTERN AUSTRALIA

PLANT DISEASES ACT 1914

AN ACT to prevent the introduction into Western Australia of diseases affecting plants, to provide for the eradication of such diseases and to prevent the spread thereof, and to amend and consolidate the law relating to such matters.

Short title and commencement

1. This Act may be cited as the *Plant Diseases Act 1914*, and shall come into operation on a day to be fixed by proclamation.¹

Repeal

[2. *Omitted under Reprints Act 1984 s.7 (4) (f).*]

s. 3

[3. *Repealed by No. 51 of 1984 s.3.*]

Interpretation

4. In this Act, subject to the context —

“**covering**” includes any case, box, bag, wrapper, packing, or material of whatsoever description used to cover any thing or designed to contain or be used in the packing of anything;

“**disease**” means any disease that commonly attacks plants and includes any plant, animal, fungus, bacteria, virus or nematode commonly found in or on plants;

“**fruit**” means the product of any plant, and includes the peel, skin, or shell of any such product, and also the seeds of any plant;

“**infected**” means actually infected with disease or liable, by reason of contact or proximity, to be infected;

“**inspector**” means a person appointed as an inspector under or for the purposes of this Act;

“**occupier**” as applied to any orchard or other land or premises includes any person having the charge, management, or control thereof;

“**orchard**” means any land used for the purpose of growing or cultivating plants, and includes any garden, farm, vinery, vineyard, and hothouse, and any place where any plant is cultivated or where any plant which has been cultivated is growing;

“**owner**”, as applied to land, means any person who is in possession or entitled to possession of the land, or in receipt or entitled to the receipt of rents and profits of the land, as —

- (a) the holder of a legal or equitable estate of freehold in possession therein; or

- (b) the holder of an estate less than freehold under a lease or agreement granted or made by or with the Crown; or
- (c) a mortgagee of the land; or
- (d) the trustee, attorney, or authorized agent of any such holder or mortgagee;

“**plant**” includes any part of a plant, and extends to fruit;

“**potential carrier**” means anything capable of carrying and transmitting disease and includes —

- (a) animals;
- (b) plants;
- (c) coverings and any movable thing used for or in connection with plants; and
- (d) the clothing and personal effects of persons handling plants.

[Section 4 amended by No. 3 of 1949 s.3; No. 3 of 1974 s.3; No. 51 of 1984 s.4.]

Purposes of this Act

5. The purposes of this Act are to prevent the introduction into the State of diseases affecting plants, to eradicate and control diseases in or on plants and to prevent the spread thereof.

[Section 5 inserted by No. 51 of 1984 s.5.]

[6. *Repealed by No. 51 of 1984 s.6.]*

s. 6A

Inspector's powers of detention

6A. An inspector may detain any plant or potential carrier in respect of which fees have become payable for any inspection pursuant to the provisions of this Act until payment of those fees, and failing payment thereof within the time specified in a notice given by the inspector to the person who appears to him to be the owner of the plant or potential carrier may dispose of the plant or potential carrier by sale or otherwise: Provided that in the case of sale the proceeds shall be appropriated in payment or part payment of the amount due for fees and any balance remaining after payment in full of the fees shall be transmitted to the person entitled thereto.

[Section 6A inserted by No. 35 of 1947 s.3; amended by No. 51 of 1984 s.7.]

Appointment of officers

7. (1) There shall be appointed under and subject to the *Public Service Act 1978* such inspectors and other officers as are necessary for carrying out the provisions of this Act.

(2) The Minister may appoint temporary inspectors to hold office for any period not exceeding 12 months, and every person so appointed shall be deemed to be an inspector for the purposes of this Act.

[Section 7 amended by No. 51 of 1984 s.8.]

[8.] *Repealed by No. 55 of 1981 s.2.]*

Fruit Fly Eradication Fund

9. (1) For the purposes of this Act there shall be established a special fund, to be administered by the Director General of Agriculture² through a separate trust account and to be known as The Fruit Fly Eradication Fund.

(2) The fund shall consist of moneys appropriated by Parliament to the purposes of the fund and any other moneys lawfully paid into the fund.

(3) The moneys in the fund shall be deposited in the name of the fund at the Treasury, and, subject to this Act, shall be operated on by the Director General of Agriculture².

(4) Subject in every case to the approval in writing of the Minister, the moneys in the fund may be used and applied for the control, prevention, and eradication of fruit fly, in such amounts from time to time, in such manner, and by such methods, as shall be authorized by the Minister.

(5) In addition to being used and applied for the purposes mentioned in subsection (4) the moneys in the fund may be used and applied for the carrying out of surveys under section 12B and the taking of polls under sections 12B and 12C.

[Section 9³ inserted by No. 10 of 1935 s.2 as s.7B; amended by No. 55 of 1981 s.3; No. 51 of 1984 s.9.]

Notice to be given of appearance of disease

10. Every occupier of any orchard in which any disease appears shall, within 24 hours after first discovering or becoming aware of its presence, give written notice thereof to an inspector or to the Director General of Agriculture².

[Section 10³ amended by No. 53 of 1962 s.2.]

Obligation to carry out treatment for plant diseases

11. (1) Whenever any disease to which this section applies exists or appears in any orchard, the occupier of the orchard shall take or cause to be taken such steps, and adopt such measures, as

s. 12

are prescribed as appropriate steps to be taken, and measures to be adopted, in order to eradicate such disease and prevent the spread thereof.

Penalty: \$5 000.

(2) The diseases to which this section applies are such diseases as are for the time declared by any regulation to be subject to the provisions of this section.

(3) Whenever an inspector shall discover that a breach of this section has been committed he may take or cause to be taken all or any of the steps and adopt all or any of the measures aforesaid, and may also take and adopt any other step or measure which is authorized by the regulations, and the expenses of or incidental to any action taken by an inspector hereunder shall be recoverable from the person guilty of the breach.

[Section 11^s inserted by No. 4 of 1925 s.2 as s.8A; amended by No. 6 of 1926 s.2; No. 22 of 1966 s.3; No. 55 of 1981 s.12; No. 51 of 1984 s.10.]

Minister may declare certain areas to be infected

12. (1) The Minister may by notice published in the *Government Gazette* and in a newspaper circulating in the area specified in such notice, declare that any portion of the State defined in such notice is infested with disease of the kind mentioned in such notice, and may at any time thereafter by notice published similarly to the first-mentioned notice cancel such first-mentioned notice.

(2) Upon the publication of such notice, and while the same continues in operation, the owner or occupier of every orchard situate within the area defined in the notice shall take, or cause to be taken such steps, and adopt or cause to be adopted, such measures as are prescribed as appropriate steps to be taken and measures to be adopted in order to control and eradicate the disease

mentioned in the notice and to prevent the spread thereof, notwithstanding that such disease may not then exist or appear to exist in the orchard of such owner or occupier.

(3) Any person who fails or neglects to comply in every respect with the provisions of subsection (2) shall be guilty of an offence.

Penalty: \$5 000.

[Section 12³ inserted by No. 10 of 1935 s.3 as s.8B; amended by No. 22 of 1966 s.4; No. 55 of 1981 s.12; No. 51 of 1984 s.11.]

Power to demand vote for a compulsory fruit fly foliage baiting scheme

12A. Any incorporated Fruit Growers' Association, or any municipality constituted under the *Local Government Act 1960*, may, by writing under its common seal, delivered to the Minister, request in respect of orchards situated within any district, that the question whether or not a compulsory fruit fly foliage baiting scheme should be introduced within such district be submitted to the vote of occupiers of orchards situated within such district.

For the purposes of this section and sections 12B to 12E, both inclusive, the term "**district**" means, and shall be deemed always to have meant, such one or more of the municipal districts constituted under the *Local Government Act 1960*, or such portion of a municipal district or of 2 or more municipal districts as shall be specified and defined in the request aforesaid, and approved by the Minister as an area to which the provisions of this section and section 12B to 12E, both inclusive, should apply and the term "**orchard**" means an orchard containing one or more fruit trees or one or more fruit vines.

[Section 12A inserted by No. 25 of 1946 s.2; amended by No. 53 of 1962 s.3; No. 64 of 1979 s.3; No. 55 of 1981 s.4.]

s. 12B

Vote of occupiers of orchards how taken

12B. (1) When a request has been made under section 12A, the Minister may, if he thinks fit —

- (a) direct the Director General of Agriculture² to cause a survey to be carried out for the purpose of locating and recording the orchards in such district and identifying and recording the occupiers thereof and to report to the Minister when the survey has been completed; and
- (b) on receipt of the Director General's² report under paragraph (a), publish notice in a newspaper circulating in such district directing that on a day specified in the notice, being a day not less than 28 days nor more than 56 days after the receipt of that report, a poll shall be taken of occupiers of orchards situated in such district for or against the introduction within such district of a compulsory fruit fly foliage baiting scheme under and for the purposes of this Act.

(2) For the taking of a poll under subsection (1) the Minister shall cause a special roll of occupiers of orchards situated in such district to be prepared in accordance with the regulations from the information recorded in the survey carried out pursuant to subsection (1) (a).

[Section 12B inserted by No. 55 of 1981 s.5.]

**Power, under certain circumstances
to appoint a committee**

12C.⁴ (1) If, on a poll being taken, at least 60% of those owners and occupiers who vote on the question, vote in favour of the introduction within such district of the said scheme, then subject to subsection (2) the following provisions shall operate and have effect —

- (a) The Minister shall, by notice in the *Gazette*, appoint and name a Committee (including a person to act as secretary who shall, where the poll was taken at the

request of a municipality, be an officer nominated by that municipality) to administer, subject to this Act, the fruit fly foliage baiting scheme within such district, and to control and prevent fruit fly therein, for a minimum period of 3 years from such date as the Minister shall specify in the notice, and the Committee shall continue after the expiration of that period so to administer the scheme and so to control and prevent fruit fly in the district until —

- (i) the holding of a poll, directed by the Minister where the scheme has gone, or seems likely to go, into abeyance or has not been operating effectively or where requested by not less than 10% of the number of persons who are, according to the records maintained by the Committee pursuant to paragraph (db), occupiers of orchards situated in such district, to determine whether the scheme should continue; or
 - (ii) the Minister directs that the scheme be wound up as provided by section 12E where the scheme has ceased operating and is unlikely, in the opinion of the Minister, to commence operation again.
- (aa) Where a poll is directed or requested under paragraph (a) the Minister shall publish notice in a newspaper circulating in such district directing that on a day specified in the notice, being a day during the period commencing on 1 June in any year and ending on 31 July in the same year, a poll shall be taken of occupiers of orchards situated in such district for or against the continuance of the scheme.
- (aaa) For the taking of a poll directed or requested under paragraph (a) the Minister shall cause a special roll of occupiers of orchards situated in such district to be

Plant Diseases Act 1914

s. 12C

prepared in accordance with the regulations from the information in the records maintained by the Committee pursuant to paragraph (db).

- (ab) If, upon the taking of a poll directed or requested under paragraph (a), at least 60% of those occupiers who vote on the question vote in favour of its continuance, the scheme shall be continued and the Minister shall appoint and name a Committee, as provided by that paragraph and that Committee shall be deemed to have been appointed as at the date of the poll, otherwise the scheme shall be discontinued and wound up, as provided by section 12E.
- (b) A Committee appointed under this section shall consist of 5 members, 4 of whom shall be persons who were entitled to vote at the poll aforesaid and who shall be selected by the Minister where the holding of the poll was directed by the Minister or nominated by the Association or municipality making the request for the poll where such was the case; and the 5th member shall be an inspector nominated by the Minister, and who shall be Chairman of the Committee. All members of the Committee shall hold office during the pleasure of the Governor.
- (ba) An act, proceeding or determination of a Committee appointed under this section is not invalid or defective on the ground that when the act, proceeding or determination was done, carried out or made a vacancy or vacancies existed in office of a member of the Committee, or on the ground of a defect or irregularity in the appointment or qualification of a member of the Committee.
- (c) The Governor may make regulations prescribing the holding of and procedure for meetings of the Committee, the filling of casual vacancies and the payment of fees

and allowances to members of the Committee for their services as such, and for such purposes may delegate powers to the Minister.

(d) The Committee shall have the following powers, namely —

(i) for the purposes of this Act, to establish and administer a Fund, which shall consist of —

firstly — such advances, if any, as the Fruit Growing Industry Trust Fund Committee, constituted under the *Fruit Growing Industry (Trust Fund) Act 1941*, may, in its discretion but with the approval of the Minister, make to the Committee under this Act;

secondly — moneys received from service fees levied or charges for services rendered in respect of the baiting or spraying of orchards under the scheme;

thirdly — contributions made to the fund under this Act; and

fourthly — penalties imposed upon persons convicted of any offences under this section, which penalties notwithstanding the *Fines and Penalties Appropriation Act 1909*, are hereby declared to be payable into the Fund;

(ii) to purchase, hire or acquire plant, equipment and materials for the purposes of the scheme;

(iii) to appoint and engage such officers and employees as the Committee shall think fit and to remunerate them with moneys from the Fund established under this section;

Plant Diseases Act 1914

s. 12C

- (iv) by any person or persons authorized in writing by the Committee under the hand of its Chairman, to enter upon any orchard or orchards within such district as the Committee shall decide, and to bait or spray all or any fruit trees and fruit vines or kinds or varieties of fruit trees and fruit vines in such orchards as the Committee shall from time to time determine, in such manner and with such materials as may be prescribed;

- (v) to —
 - (I) fix an annual service fee to be levied at a uniform rate in respect of every orchard within such district and a scale of charges for services rendered by or on behalf of the Committee in respect of the baiting or spraying to be carried out, which service fee and scale of charges shall not exceed such amounts as are respectively prescribed by regulation;

 - (II) demand and recover payment from the owner or occupier of the orchard of the service fee levied and the charges estimated for the baiting or spraying to be carried out in the relevant accounting period by or on behalf of the Committee;

 - (III) fix any accounting period in relation to the liability for and payment of those charges;

 - (IV) estimate the charges payable in respect of an accounting period so fixed, by any such owner or occupier and demand and recover from him at the commencement of that

period the service fee and the whole of such charges estimated as applicable to that period;

- (V) refund to, or demand and recover from, such owner or occupier so soon as it can be ascertained the amount by which the estimate of the charges is greater or less than the assessment of the charges, as the case may be;
- (vi) to commence and maintain proceedings against, and to recover from, any owner or occupier who, after demand, fails within 30 days thereafter to pay such service fee and charges estimated, by summary process in the court of petty sessions nearest to the orchard in respect of which such demand shall have been made, provided that the Committee may, in its discretion, waive or settle any such service fee or charges. Any complaint and proceedings under this paragraph may be made and maintained on behalf of the Committee by and in the name of its Chairman and an averment in a complaint so made that an orchard is situated in the district in respect of which the Committee is appointed under paragraph (a) or by virtue of subsection (2), is *prima facie* proof to that effect; and
- (vii) such other powers not inconsistent with this Act, as may be prescribed.

[(da) deleted]

- (db) The Committee shall maintain records of orchards situated in such district and the occupiers thereof.

s. 12C

- (e) The Committee shall not, except in relation to any matter in which it is especially authorized by the Minister to act on behalf of the Crown, be the agent or servant or the representative of the Crown; and
- (f) a member of the Committee shall not be personally liable for any act done in good faith by the Committee or by the member acting as such.

(2) Where pursuant to subsection (1) a fruit fly foliage baiting scheme is being administered or is to be introduced within a district adjacent to and in the same municipality as another district within which such a scheme is being administered, the Minister, if in the circumstances of the case he considers it expedient to do so, may direct that the scheme in that other district shall extend to the adjacent district and be amalgamated with the scheme there being administered, or in the absence of any such scheme, be administered within the adjacent district as though it were the scheme required to be introduced therein.

(3) The Minister may, by notice published in the *Gazette*, change the name of the Committee to that set forth in the notice —

- (a) where he has directed the holding of a poll; or
- (b) where the incorporated Fruit Growers' Association or the municipality that requested the taking of the poll that resulted in the appointment and naming of a Committee by the Minister under this section, requests the Minister in writing to change the name of the Committee.

[Section 12C inserted by No. 25 of 1946 s.2; amended by No. 11 of 1949 s.3; No. 3 of 1950 s.3; No. 57 of 1954 s.2; No. 60 of 1958 s.3; No. 34 of 1960 s.2; No. 53 of 1962 s.4; No. 22 of 1966 s.5; No. 39 of 1967 s.2; No. 7 of 1969 s.3; No. 3 of 1974 s.4; No. 52 of 1978 s.2; No. 64 of 1979 ss.4 and 5; No. 55 of 1981 s.6; No. 98 of 1985 s.3; No. 51 of 1984 s.12.]

Regulations as to polls and notification of result

12CA. (1) Regulations under this Act may prescribe the manner in which and conditions under which, polls may be taken under sections 12B and 12C and, in particular, may —

- (a) prescribe matters relating to the preparation of the roll for such a poll including the eligibility and procedure for enrolment in the event of —
 - (i) there being 2 or more occupiers of an orchard; or
 - (ii) a person being the occupier of more than one orchard;
- (b) prescribe forms for voting papers and other matters relating to the taking of such a poll; and
- (c) provide for the appointment and payment of a returning officer and other officers for the taking and scrutiny of such a poll.

(2) The Minister shall cause to be published in the *Government Gazette* notification of the result of a poll taken under section 12B or 12C and that notification shall be conclusive evidence of the result of the poll and of the regularity of all antecedent proceedings and of due compliance with all necessary conditions.

[Section 12CA inserted by No. 55 of 1981 s.7.]

Powers of Minister to settle disputes, etc.

12CB. The Minister may determine any dispute or question as to or arising out of —

- (a) the information recorded, or to be recorded, in a survey carried out pursuant to section 12B (1) (a) or in records maintained by a Committee pursuant to section 12C (1) (db); or

s. 12D

(b) the taking of a poll under section 12B or 12C, and the decision of the Minister shall be final and conclusive.

[*Section 12CB inserted by No. 55 of 1981 s.7.*]

Frequency of polls

12D. No poll under section 12B or 12C shall, in respect of any district, be taken more frequently than once in every 2 years and 9 months.

[*Section 12D inserted by No. 25 of 1946 s.2; amended by No. 34 of 1960 s.3.*]

Dissolution of scheme in a district

12E. Where, in any district, the fruit fly foliage baiting scheme is wound up, any vehicles, plant, equipment or materials vested in the Committee shall vest in the Minister, for the purposes of this Act, and any moneys held by, or due to, the Committee shall be appropriated and applied in the payment of any debts due and owing by the Committee and any balance then remaining shall be paid to the Fruit Fly Eradication Fund.

[*Section 12E inserted by No. 34 of 1960 s.4.*]

Application of *Financial Administration and Audit Act 1985*

12F. (1) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of a Committee and its operations.

(2) Notwithstanding the provisions of the *Financial Administration and Audit Act 1985*, the financial year of a Committee shall end on 31 August.

[*Section 12F inserted by No. 98 of 1985 s.3.*]

Power of entry and search

13. (1) Any inspector may at any time —
- (a) with or without assistants, enter upon any orchard, land, or premises or into any house or structure used for the storage of fruit; or
 - (b) stop any conveyance or vessel and, with or without assistants, enter into or upon the conveyance or board the vessel,

and may thoroughly search and inspect the same and every part thereof, and everything on or in the same, for the purpose of ascertaining whether the same is infected, and may for that purpose examine plants, fruit, coverings, and goods and other things, and dig up plants, open packages, and do all such other things (whether of the same nature as anything mentioned in this subsection or not) as he may deem necessary or expedient.

(2) A person who, being in charge of a conveyance or vessel, fails to stop the conveyance or vessel when required so to do by a person who makes himself known as being an inspector, commits an offence against this Act.

[Section 13 inserted by No. 53 of 1962 s.5; amended by No. 22 of 1966 s.6; No. 55 of 1981 s.12; No. 54 of 1981 s.13.]

Steps to be taken by inspector when orchard infected

14. (1) Whenever an inspector is satisfied that disease exists on any orchard, land, or premises he may by requisition to the owner and occupier or either of them require them or him to do whatever is necessary in order to eradicate such disease from such orchard, land, or premises and to prevent the spread thereof, and the requisition may specify any particular steps which the inspector requires to be taken.

s. 15

(2) Such requisition may name a time by which the doing of anything thereby required shall be commenced and a time within which it shall be completed.

(3) The owner and occupier, jointly or severally, or the owner or occupier, as the case may be, shall be responsible for due compliance with the requisition, and shall do everything thereby required to be done.

Penalty: \$5 000.

(4) In case of any default in compliance with the terms of the requisition, any inspector may do or cause to be done all such things as may be necessary in order to carry the terms of the requisition completely into effect, and the expenses incurred in and about so doing shall be recoverable from the person or persons guilty of the default.

[Section 14³ amended by No. 22 of 1966 s.7; No. 55 of 1981 s.12; No. 51 of 1984 s.14.]

Declaration of infected places

15. (1) Whenever it shall appear to the Minister on the report of an inspector or the Director General of Agriculture² that any disease exists or has within the preceding 3 months existed in any orchard, he may by notice published in the *Gazette*, declare that such orchard, together with such area of land contiguous to or surrounding the same, as he thinks expedient, is infected.

(2) Such notice shall describe with reasonable particularity the situation and area of the orchard and other land to which such notice relates.

(3) From the date of the publication of such notice in the *Gazette*, and until the Minister shall by notice published in the *Gazette* otherwise direct, such orchard and other land shall be deemed to be infected, and no plants or fruit shall be removed therefrom except with the permission of an inspector.

[Section 15³ amended by No. 53 of 1962 s.6.]

Power to order infected things to be dealt with so as to eradicate disease

16.³ (1) If, as the result of any investigation conducted by him, any inspector shall declare any plant, fruit, covering, goods, conveyance, or vessel to be infected, he shall give notice thereof to the owner or person in charge thereof, and on receipt of such notice such owner or person shall forthwith take such measures and do such acts as are necessary, or as the inspector shall declare to be necessary, in order to eradicate or prevent the spread of the disease.

(2) If such owner or person fails or neglects to take any such measures or do any such acts as aforesaid, any inspector may do the same at the expense in all things of either such owner or such person in charge thereof, as the Minister shall direct.

Power to destroy infected plants, covering, etc.

17.³ For the purpose of carrying out the objects of this Act any inspector may destroy or otherwise dispose of any plants or fruit which are infected or which he shall on reasonable grounds believe to be infected, or any coverings in or with which any such plants or fruit have been contained or packed or come in contact.

Power to require owner or occupier of orchard to take steps to prevent spread of disease

18.³ An inspector may, with the approval of and subject to an appeal to the Minister, serve on the occupier and owner of any orchard or place where any plant is growing, or on either of them, a notice requiring them or him to take any measures or do any acts which the inspector may deem necessary to prevent the spread of any disease, and in such case, even although the orchard or place is not infected, any person on whom any such notice is served shall, as soon as practicable after the receipt thereof, comply with the requisitions thereof.

s. 19

(2) In the event of notice being served on both the owner and occupier, they shall be jointly and severally liable to perform the requisitions thereof.

(3) In case of any default in compliance with the terms of the notice any inspector may do or cause to be done all such things as may be necessary in order to carry the terms of the notice completely into effect, and the expenses incurred in or about so doing shall be recoverable from the person or persons guilty of the default.

Prunings to be destroyed

19. (1) When any plants are pruned on any orchard the occupier shall, within 14 days after notice so to do has been served on him by an inspector, destroy all the prunings, even although the same be not infected.

Penalty: \$400.

(2) Provided that the Minister or officer authorized to act on his behalf may grant a certificate of exemption from the operation of this section with respect to any specified prunings which may be required for propagation purposes.

[Section 19³ amended by No. 22 of 1966 s.8; No. 55 of 1981 s.12.]

Young plants for sale not to be grown near trees in bearing

20. No young plants intended for sale shall be grown or remain growing by or with the permission of any person within the prescribed distance of any fruit trees in bearing.

Penalty: \$1 000.

[Section 20³ amended by No. 22 of 1966 s.8; No. 55 of 1981 s.6; No. 51 of 1984 s.15.]

Power to require information

21. An inspector may require any person having in his possession or charge or under his control —

- (a) fruit or plants;
- (b) any coverings or goods in or with which fruit or plants are or have been contained, packed or in contact;
- (c) any conveyance or vessel in or on which fruit or plants are being or have been carried; or
- (d) any other thing that is or may be infected,

to state his name and address and to answer any question that the inspector considers relevant in relation to the fruit, plants, coverings, goods, conveyance, vessel or other thing.

[Section 21 inserted by No. 55 of 1981 s.8.]

Power to destroy plants in abandoned orchards

22. (1) If any inspector shall report to the Minister that any orchard or part of an orchard has been abandoned, the Minister may publish in the *Gazette* and in a newspaper circulating in the locality wherein such orchard or part of an orchard is situated, a notice of the receipt of such report, and may therein state that unless within 3 months good cause is shown to him why he should not exercise the powers conferred by this section, he will order all plants in such orchard or part of an orchard which are deemed by an inspector to be likely to spread or capable of aiding in the spread of disease to be destroyed.

(2) Unless within the period of 3 months good cause is shown to the satisfaction of the Minister, then the orchard or part of an orchard shall be conclusively deemed to be abandoned, and the Minister may cause such plants to be destroyed as stated in the notice, and this Act shall be sufficient warrant for any act done or step taken for that purpose.

s. 23

(3) The owner of the orchard in which plants are destroyed under the authority of and in accordance with the provisions of this section shall be liable for the payment of any expenses incurred in connection with the destruction of such plants.

(4) For the purposes of this section an orchard or part of an orchard shall be deemed to be abandoned if the Director of Horticulture⁵ in the Department of Agriculture certifies by writing under his hand that in his opinion the plants growing in such orchard or part of an orchard have not been cultivated or cared for in a *bona fide* and husband-like manner for a period of 12 months next preceding the date of his certificate:

Provided that the owner or occupier of such orchard or part of an orchard may, within the time prescribed for showing good cause as provided for in subsection (1), appeal to the Minister in accordance with the regulations, against the decision of the Director of Horticulture⁵, and the Minister may on the hearing of such appeal affirm or set aside such decision.

[Section 22³ amended by No. 63 of 1981 s.4.]

Powers to prevent introduction and spread of disease

23. (1) In this section —

“**consignment**” means a consignment of goods or things of any kind that is being or has been carried in or on a conveyance or vessel;

(2) In order to prevent any disease from being introduced into the State or into any portion of the State, or being spread within the State an inspector may —

(a) inspect any conveyance, vessel or consignment for the purpose of ascertaining whether there is any potential carrier therein or thereon;

- (b) seize any potential carrier that is being introduced or attempted to be introduced into the State or into any portion of the State, or being moved or attempted to be moved within the State, in contravention of this Act and disinfect, destroy or otherwise treat or dispose of it as he thinks fit;
- (c) subject to the regulations, detain a conveyance, vessel or consignment pending the inspection thereof to ascertain whether there is any potential carrier therein or thereon or pending the disinfection or other treatment of the potential carrier;
- (d) issue to the owner or person in charge of a conveyance, vessel or consignment a notice directing that he take it or cause it to be taken, under quarantine, to a place specified in the notice in order for it to be inspected to ascertain whether there is any disease therein or thereon or for any potential carrier to be disinfected or otherwise treated.

(3) Any expenses incurred by an inspector in disinfecting, destroying or otherwise disposing of or treating any plant or covering or in disinfecting or treating any conveyance or vessel pursuant to subsection (2) shall be met by the owner or person in charge thereof, as the Minister shall direct.

(4) An inspector may after inspecting any conveyance, vessel or consignment, whether or not that conveyance, vessel or consignment is infected, —

- (a) treat it in order to eradicate disease or to lessen the risk of the spread of disease;
- (b) detain it pending the treatment of it for the purposes mentioned in paragraph (a); or
- (c) issue to the owner or person in charge of it a notice directing that he take it or cause it to be taken, under quarantine, to a place specified in the notice in order for it to be treated for the purposes mentioned in paragraph (a).

s. 24

(5) A person who contravenes or fails to comply with a notice issued under subsection (2) (d) or subsection (4) (c) commits an offence against this Act.

(6) Section 34 (2) and (3) do not apply in relation to the movement of any plant, fruit, goods, coverings or thing pursuant to and in accordance with a notice issued under subsection (2) (d) or subsection (4) (c).

(7) The provisions of this section are in addition to and not in derogation of any other provisions of this Act conferring powers upon inspectors.

[Section 23 inserted by No. 55 of 1981 s.9; amended by No. 51 of 1984 s.16.]

Recovery of expenses

24.³ When any person is liable for any expenses incurred under this Act, such expenses shall be a charge on any orchard, land or premises in respect of which they have been incurred, and any such expenses, whether so charged or not, may be recovered by action brought by the Crown in any court of competent jurisdiction, or may be recovered summarily on the complaint of any inspector before any 2 justices of the peace.

Payment for work done as between owner and occupier

25.³ (1) Any owner who does or pays for the doing of any work pursuant to this Act in respect of any orchard, land, or premises which are occupied by another person shall, subject to any agreement between him and that person, be entitled to recover from such person as a debt the cost of the work so done or the amount so paid, if he proves that the work was rendered necessary through no fault of his own or of any person for whose acts or default he was responsible, but solely or mainly through the fault of the occupier or some person for whose acts or default the occupier was responsible.

(2) Any occupier who does or pays for the doing of any work pursuant to this Act in respect of any orchard, land, or premises of which he is not the owner, shall, subject to any agreement between him and the owner, be entitled to recover from the owner as a debt the cost of the work so done or the amount so paid, if he proves that the work was rendered necessary through no fault of his own or of any person for whose act or default he was responsible, but solely or mainly through the fault of the owner or some person for whose acts or default the owner was responsible.

(3) The amount of the debt recoverable by the occupier may be set off against rent due or to accrue due by him to the owner.

Penalty if owner or occupier hinders the other

26. Any owner of any orchard, land, or premises which is in the occupation of another person shall have full right of entry on and into the same, and of remaining thereon and therein for the purpose of doing anything which he is required to do under or pursuant to this Act, and if in the performance of any duty or obligation imposed on him by or under this Act the owner of any orchard, land or premises is in any way obstructed or hindered by the occupier, or the occupier by the owner, the one who obstructs or hinders the other shall be liable to a daily penalty not exceeding \$200.

[Section 26³ amended by No. 22 of 1966 s.9; No. 55 of 1981 s.12; No. 20 of 1989 s.3.]

Employment of assistants

27.³ Any inspector may employ such assistants as he deems necessary in carrying out the provisions of this Act.

Use of force in case of resistance

28.³ For the purpose of making an entry or removal, or otherwise performing his duties under this Act, any inspector or assistant may, in case of resistance, use all necessary force.

s. 29

Persons obstructing officers

29. (1) Every person commits an offence against this Act who directly or indirectly obstructs, hinders or interrupts, or threatens, or assaults, or uses improper or abusive language to any inspector or assistant whilst in the performance of his duty under this Act.

Provided that no proceedings for the recovery of any penalty for such offence, nor the payment thereof, shall be a bar to any action at law by any such inspector or assistant.

(2) A person who, without reasonable excuse, fails to give to any inspector acting in the execution of this Act any information which the inspector is expressly authorized by this Act to require or may reasonably require, or who, when required to give any such information, makes any statement that is false or misleading in a material particular, shall be treated as having obstructed the inspector.

[Section 29³ amended by No. 55 of 1981 s.10.]

Officers not to be trespassers

30.³ No inspector or assistant shall be deemed to be a trespasser by reason of any entry or removal under this Act, or be liable for any damage occasioned in carrying out the provisions of this Act.

Notices to be given in writing

31.³ Any notice to be given to any person under or pursuant to this Act or any regulation must be given in writing either by delivering the same to such person, or by leaving the same at or posting the same addressed to him at his usual or last known place of abode or business in Western Australia, or, if he is unknown or has no place of abode and no place of business in the State, or cannot be found in Western Australia, then by affixing such notice in a conspicuous place on the land to which such notice relates.

Persons not entitled to compensation

32.³ No person shall be entitled to any compensation whatsoever in respect of anything done by any inspector or other officer or assistant or any other person in the discharge of any duty or obligation under this Act or any regulation, or in respect of any measure taken in order to eradicate or prevent the spread of disease or carry out the provisions of this Act or any regulation, or in respect of any loss or injury that may directly or indirectly result therefrom.

Removal of plants from quarantine prohibited

32A. (1) An inspector may direct that any potential carrier whether brought into the State or not be placed in quarantine.

(2) No potential carrier that is required to be placed in quarantine pursuant to this Act or under this Act or regulations made under this Act shall, until released from quarantine, be moved, dealt with or interfered with except by authority and in accordance with this Act and the regulations.

(3) A person who contravenes subsection (2) commits an offence against this Act.

[Section 32A inserted by No. 51 of 1984 s.17.]

Offences

33. Every person commits an offence against this Act who, directly or indirectly, by himself, his servant or agent —

- (1) sells or offers or exposes for sale or supplies or otherwise disposes of any plant, fruit, goods, covering or thing which is or are diseased or infected, or (except under the direction of an inspector) brings or suffers to be brought

s. 34

upon, or removes or suffers to be removed from his premises any such plant, fruit, goods, covering, or thing contrary to this Act or a regulation made under this Act; or

- (2) sells or offers or exposes for sale or supplies or otherwise disposes of any plant, fruit, goods, covering, or thing which has or have been introduced into Western Australia in breach of any proclamation under this Act or a regulation made under this Act, or (except under the direction of any inspector) brings or suffers to be brought upon, or removes or suffers to be removed from his premises any such plant, fruit, goods, covering, or thing.

[Section 33³ amended by No. 51 of 1984 s.18.]

Penalties

34. (1) Every person who commits any offence against this Act shall (unless another penalty is specified for the offence) be liable on summary conviction to a penalty as follows —

- (a) in the case of a natural person —
 - (i) for a first offence, to a maximum penalty of \$3 000;
 - (ii) for a second offence, a maximum penalty of \$5 000 or imprisonment for a period of 6 months or both;
 - (iii) for a third or subsequent offence, to a maximum penalty of \$10 000 or imprisonment for a period of 12 months or both;

- (b) in the case of a body corporate —
- (i) for a first offence to a maximum penalty of \$10 000;
 - (ii) for a second offence to a maximum penalty of \$25 000; and
 - (iii) for a third or subsequent offence to a maximum penalty of \$50 000.

(2) A person who attempts to commit an offence against this Act is guilty of an offence against this Act.

(3) A person who omits or neglects to perform any duty or obligation imposed on him by this Act is guilty of an offence against this Act.

[Section 34³ amended by No. 22 of 1966 s.10; No. 55 of 1981 s.12; No. 51 of 1984 s.19; No. 20 of 1989 s.3.]

[35. *Repealed by No. 20 of 1989 s.3.]*

Liability of directors

35A. (1) Where a corporation is convicted of an offence against this Act, every person who at the time of the commission of the offence was —

- (a) a director or member of the governing authority of the corporation;
- (b) a person, other than a person giving advice to the directors in his professional capacity, in accordance with whose directions the corporation is accustomed to act; or

s. 35B

- (c) an officer concerned in the management of the corporation,

and who authorized or permitted the commission of the offence, is guilty of the like offence.

(2) A person referred to in subsection (1) may, on the request of the complainant, be convicted on the proceedings on which the corporation is convicted if the court is satisfied that the person had reasonable notice that the complainant intended to make that request.

[Section 35A inserted by No. 51 of 1984 s.21.]

Liability of principal for acts of agent

35B. (1) Notwithstanding any other law or rule of law, where any person (in this section referred to as “**the agent**”) acting, otherwise than as an employee, for or on behalf of another person (in this section referred to as “**the principal**”) commits an offence against this Act the principal is guilty of an offence against this Act in like manner as the agent and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and that he took all reasonable precautions and used all due diligence to avoid the commission of the offence.

(2) The principal may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the agent has not been proceeded against or has not been convicted under this Act.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 35B inserted by No. 51 of 1984 s.21.]

Liability of employer for offence of employee

35C. (1) Notwithstanding any other law or rule of law, where any person, as the employee of another person (in this section referred to as “**the employer**”) commits an offence against this Act, the employer is guilty of an offence against this Act in like manner as the employee (whether or not the offence was committed without his authority or contrary to his orders or instructions) and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and could not, by the exercise of diligence, have prevented the commission of the offence.

(2) The employer may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the employee has not been proceeded against or has not been convicted under this Act.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

[Section 35C inserted by No. 51 of 1984 s.21.]

Onus of proof

36.³ In all proceedings taken against any person for any offence against this Act, the averments of the prosecutor contained in a sworn complaint shall be deemed to be proved in the absence of proof to the contrary.

Proof of knowledge

37.³ Whenever in any such prosecution knowledge must be shown, such knowledge shall be presumed, unless and until the contrary is proved and the defendant satisfies the Court that the want of knowledge was reasonable, and was in no way imputable to negligence on the part of himself, his servant or agent.

s. 38

Proof of ownership or occupancy

38. (1) In any legal proceedings under this Act, in addition to any other method of proof available —

- (a) evidence that the person proceeded against is rated as owner or occupier by any council of a shire⁶ or municipal council in respect of any land to any rate for the municipal or road district within which such land is situated; or
- (b) evidence by the certificate of —
 - (i) the Registrar of Deeds and Transfers or his substitute or any assistant registrar of deeds and transfers that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (ii) the Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any registry book kept under the *Transfer of Land Act 1893*, as owner of any land; or
 - (iii) the Executive Director, Department of Land Administration⁷ or the chief executive officer⁸ of the Department of Mines of the Public Service of the State, that any person is registered in the Department of Land Administration⁹, or the Department of Mines, as the lessee or occupier of any land,

shall, until the contrary is proved, be evidence that such person is the owner, or occupier, as the case may be, of such land.

(2) All courts and all persons having by law, or by consent of parties, authority to hear, receive, and examine evidence shall, for the purposes of this Act, take judicial notice of the signature attached to such certificate, and on the written application of the Director General of Agriculture², a certificate giving the name and

address of such owner, or occupier, the situation and description of such land, and date of registration of title, shall be furnished by the proper officer.

[Section 38³ amended by No. 3 of 1949 s.4; No. 53 of 1962 s.7; No. 63 of 1981 s.4.]

Regulations

39. (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to prescribe for giving effect to this Act.

(2) Without limiting the generality of any of the above provisions, it is declared that the Governor may by regulations —

- (a) prescribe the manner in which plants, fruit, coverings, goods, conveyances, vessels or other things shall (whether infected or not) be treated in order to eradicate disease or to lessen the risk of the spread of disease;
- (aa) regulate the manner of and procedures for the stopping and inspecting by any inspector of conveyances and vessels under the provisions of this Act;
- (ab) regulate the detention of conveyances, vessels and other things pending inspection or disinfection or other treatment under this Act;
- (ac) regulate the issue of notices under section 23 (2) (d) and (4) (c);
- (b) prescribe conditions under which any potential carrier may be brought into the State and provide that the breach of any such condition constitutes an offence;

Plant Diseases Act 1914

s. 39

- (ba) provide for the quarantine, examination and certification of any potential carrier whether brought into the State or not, and provide for the seizure and destruction of any potential carrier found to be infected;
- (bb) prescribe places to be the places at which plants or fruit are permitted to enter the State;
- (bc) prohibit, restrict or regulate the movement of any plant or fruit, conveyance, vessel, coverings or other things whether infected or not, into the State or into or out of any specified part of the State;
- (bd) provide for the management of quarantine areas and for the treatment and period of treatment, of plants or fruit in quarantine areas and prohibit the removal therefrom of, and interference with, any such plants or fruit;
- (be) prescribe all necessary forms and the manner of, and time for, their completion and require any information or certificate supplied pursuant to the regulations to be verified by statutory declaration;
- (c) prescribe the matters in respect of which fees or charges shall be payable under this Act, and fix the amounts of such fees or the permissible limits, of such fees or charges and the mode of payment and recovery thereof;
- (d) require the occupiers of plant nurseries to fumigate and disinfect all plants before the same are sent out from the nurseries, and prescribe the manner of such fumigation and disinfection;
- (e) require coverings containing fruit or plants to be branded or labelled, and prescribe the manner of such branding or labelling;
- (f) regulate the sale of insecticides and fungicides and preparations for the destruction of any disease which commonly attacks or is found on plants, and compel

vendors of the same to supply to purchasers particulars of the ingredients thereof and to guarantee the truth of the particulars supplied;

- (g) impose a penalty not exceeding \$5 000 for the breach of any regulation.

(3) Section 43 (8) (c) of the *Interpretation Act 1984* shall be deemed to be amended for the purposes of this section by deleting “a specified person or body or a specified class of person or body” and substituting the following —

“ the Director General of Agriculture² or a person authorized by him ”.

[Section 39³ amended by No. 3 of 1949 s.5; No. 45 of 1952 s.2; No. 60 of 1958 s.4; No. 53 of 1962 s.8; No. 22 of 1966 s.11; No. 94 of 1972 s.4 (as amended by No. 19 of 1973); No. 64 of 1979 s.6; No. 55 of 1981 s.11; No. 51 of 1984 s.22; No. 20 of 1989 s.3.]

Judicial notice to be taken of regulations and proclamations

40.³ All courts and magistrates shall take judicial notice of all regulations and proclamations under this Act.

[41. *Repealed by No. 31 of 1965 s.3.*]

[**SCHEDULE.** *Repealed by No. 64 of 1979 s.7.*]

Plant Diseases Act 1914

NOTES

¹ This reprint is a compilation as at 25 September 1991 of the *Plant Diseases Act 1914* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Plant Diseases Act 1914</i>	23 of 1914	22 September 1914	29 December 1914 (see <i>Gazette</i> 24 December 1914 p.4655)	
<i>Plant Diseases Act Amendment Act 1925</i>	4 of 1925	24 September 1925	24 September 1925	
<i>Plant Diseases Act Amendment Act 1926</i>	6 of 1926	7 October 1926	7 October 1926	
<i>Plant Diseases Act Amendment Act 1933</i>	21 of 1933	13 November 1933	13 November 1933	
<i>Plant Diseases Act Amendment Act 1935</i>	10 of 1935	24 October 1935	24 October 1935	
<i>Plant Diseases Act Amendment Act 1939</i>	5 of 1939	5 October 1939	5 October 1939	
<i>Plant Diseases Act Amendment Act 1946</i>	25 of 1946	14 January 1947	14 January 1947	
<i>Plant Diseases Act Amendment Act 1947</i>	35 of 1947	1 December 1947	1 December 1947	

Plant Diseases Act 1914

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Plant Diseases Act Amendment Act (No. 2) 1949</i>	3 of 1949	24 August 1949	24 August 1949	
<i>Plant Diseases Act Amendment Act 1949</i>	11 of 1949	14 September 1949	14 September 1949	
<i>Plant Diseases Act Amendment Act 1950</i>	3 of 1950	15 November 1950	15 November 1950	
<i>Plant Diseases Act Amendment Act 1952</i>	45 of 1952	18 December 1952	18 December 1952	
<i>Plant Diseases Act Amendment Act 1954</i>	57 of 1954	23 December 1954	23 December 1954	
<i>Plant Diseases Act Amendment Act 1956</i>	4 of 1956	3 October 1956	3 October 1956	
<i>Plant Diseases Act Amendment Act 1958</i>	7 of 1958	29 September 1958	1 July 1959 (see <i>Gazette</i> 26 March 1959 p.820)	
<i>Plant Diseases Act Amendment Act (No.2) 1958</i>	60 of 1958	24 December 1958	1 July 1959 (see <i>Gazette</i> 26 March 1959 p.820)	

Plant Diseases Act 1914

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Plant Diseases Act 1960</i>	34 of 1960	1 November 1960	1 November 1960	
<i>Plant Diseases Act Amendment Act 1962</i>	53 of 1962	20 November 1962	20 November 1962	
<i>Plant Diseases Act Amendment Act 1965</i>	31 of 1965	21 October 1965	21 October 1965	
<i>Plant Diseases Act Amendment Act 1966</i>	22 of 1966	17 October 1966	17 October 1966	
<i>Plant Diseases Act Amendment Act 1967</i>	39 of 1967	21 November 1967	21 November 1967	
<i>Plant Diseases Act Amendment Act 1969</i>	7 of 1969	6 May 1969	6 May 1969	
<i>Plant Diseases Act Amendment Act (No.2) 1969</i>	68 of 1969	27 October 1969	27 October 1969	
<i>Metric Conversion Act 1972</i>	94 of 1972	4 December 1972	The relevant amendments as set out in the Second Schedule, took effect on 22 March 1974 (see section 4(2) and Gazette 22 March 1974 p.966)	The Second Schedule was inserted by the Metric Conversion Act Amendment Act 1973 (No.73 of 1973)
<i>Plant Diseases Act Amendment Act 1974</i>	3 of 1974	19 September 1974	22 November 1974 (see <i>Gazette</i> 22 November 1974 p.5090)	

Plant Diseases Act 1914

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Plant Diseases Act Amendment Act 1978</i>	52 of 1978	6 September 1978	6 September 1978	
<i>Plant Diseases Act Amendment Act 1979</i>	64 of 1979	21 November 1979	21 December 1979 (see <i>Gazette</i> 21 December 1979 p.3909)	
<i>Plant Diseases Amendment and Repeal Act 1981</i>	55 of 1981	13 October 1981	13 October 1981	Sections 6(2) and (3) Transitional ⁴ Section 14 Refund ¹⁰
<i>Acts Amendment (Statutory Designations) and Validation Act 1981</i> section 4	63 of 1981	13 October 1981	13 October 1981	
<i>Plant Diseases Amendment Act 1984</i>	51 of 1984	5 September 1984	7 April 1989 (see <i>Gazette</i> 7 April 1989 p.1013)	
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> section 3	98 of 1985	4 December 1986	1 July 1986 (see <i>Gazette</i> 30 June 1986 p.2255)	
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i> section 3	20 of 1989	1 December 1989	15 December 1989 (see <i>Gazette</i> 15 December 1989 p.4513)	

Nb. The *Plant Diseases Act 1914* is affected by the *Justices Act Amendment Act 1932*.

Plant Diseases Act 1914

² Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.

³ In this reprint the renumbering of sections effected in the 1943 reprint (in volume 2 of the Reprinted Acts of the Parliament of Western Australia) and retained in subsequent reprints has again been retained. References to the original numbering are contained in the 1943 reprint.

⁴ Section 6 (2) and (3) of Act No. 55 of 1981 reads as follows —

“ (2) Any fruit fly foliage baiting scheme which was introduced before the date of the coming into operation of this Act and which has not been wound up before that date shall be continued for the period commencing on that date and ending when the scheme is either wound up or continued pursuant to section 12C (1) of the principal Act as amended by this section.

(3) A scheme to which subsection (2) of this section applies shall be administered, during the period mentioned in that subsection, by the Committee that was administering it immediately before the coming into operation of this Act, and any casual vacancy in the office of a member of the Committee, other than the Chairman, shall be filled by the appointment in accordance with the regulations of a person who is, at the time of his appointment, the occupier of an orchard situated in the district according to the records maintained by the Committee pursuant to section 12C (1) (db) of the principal Act as amended by this Act.

”.

⁵ Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.

⁶ Title substituted under section 7 (3) (h) of the *Reprints Act 1984* to give effect to section 4 (3) (a) of the *Local Government Act 1960*.

⁷ Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.

⁸ Title substituted under section 7 (3) (h) of the *Reprints Act 1984* to give effect to section 31 (1) (a) of the *Acts Amendments (Public Service) Act 1987*.

⁹ Title substituted under section 7 (3) (h) of the *Reprints Act 1984*.

Plant Diseases Act 1914

¹⁰ Section 14 of Act No. 55 of 1981, reads as follows:

“ 14. (1) In this section —

“**Director**” means the Director General of Agriculture²;

“**registration fees**” means fees paid pursuant to the *Orchard Registration Regulations 1959* as in force at any time before the coming into operation of this Act.

(2) The owner or occupier of an orchard may apply to the Director for the refund of registration fees paid in respect of that orchard to the extent to which those fees relate to-

- (a) the period from the coming into operation of this Act to 30 June next following; or
- (b) the year commencing on 1 July next following the coming into operation of this Act or any succeeding year.

(3) Where an application for a refund of registration fees is made pursuant to subsection (1) of this section and it appears to the Director —

- (a) that the applicant is a person to whom the refund may properly be made; and
- (b) that the fees the subject of the application amount to not less than \$5,

the Director shall refund the fees to the applicant.

(4) Notwithstanding section 9 of the principal Act as amended by this Act The Fruit Fly Eradication Fund may be used and applied for the making of refunds under this section.

”.

