

Serial Number 1952/126



THE CITRUS CANKER REGULATIONS 1952

FREYBERG, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington, this 25th day of June 1952

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Orchard and Garden Diseases Act 1928, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

Preliminary

1. (1) These regulations may be cited as the Citrus Canker Regulations 1952.

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

2. (1) In these regulations, unless the context otherwise requires,—
- “The Act” means the Orchard and Garden Diseases Act 1928;
- “Citrus tree” means any lemon, orange, mandarin, lime, grapefruit, or New Zealand grapefruit tree or plant, and any specimen of any other kind or variety of citrus tree or plant;
- “Director” means the Director of the Horticulture Division of the Department of Agriculture;
- “Disease” means citrus canker (*Xanthomonas citri*);
- “Diseased” means infected with disease;
- “District” means a citrus-growing district created under these regulations;
- “Infected area” means any land declared by an Inspector pursuant to these regulations to be an infected area;
- “Inspector” means an Inspector appointed under the Act;
- “Nursery” means any land or place which is used for the raising or growing of citrus trees intended for sale or replanting;
- “Orchard” means any land planted wholly or partly with citrus trees; and includes a nursery.

(2) Terms and expressions defined in the Act shall, when used in these regulations, have the meanings so defined, unless otherwise provided in this regulation, or unless the context otherwise requires.

Declaration of Infected Areas

3. (1) If an Inspector is satisfied that disease is found on any orchard by reason of the existence of the disease in any citrus tree growing on the orchard, he shall, by writing under his hand, declare that orchard, together with such other land within a radius of 500 yards of that diseased tree as he thinks fit to include in the declaration, to be an infected area.

(2) Every such declaration shall, as regards any particular parcel of land, take effect on receipt by an occupier of a notice in writing of the declaration given under the hand of an Inspector or any other officer of the Public Service, and shall continue to bind the land and all occupiers thereof, notwithstanding any change in the occupancy or ownership thereof after notice as aforesaid has been given.

4. Every occupier of land to whom notice has been given of a declaration made under subclause (1) of regulation 3 hereof shall forthwith communicate the notice to the owner of the land and every person having any estate or interest in the land so far as their names and addresses are known to the occupier.

5. The Inspector shall notify the Director of any declaration made under regulation 3 hereof, and the Director shall cause notification of the declaration to be published in the *Gazette* and in such newspapers circulating in the district where the disease is found as he thinks fit.

6. Every declaration of an infected area pursuant to these regulations shall particularly describe the area intended to be affected by the declaration.

7. Any declaration of an infected area made under these regulations may at any time, by writing under the hand of an Inspector, be wholly or partially revoked, and every such revocation shall take effect upon notification thereof to the occupier of any land or upon publication of the instrument or a notification of the effect thereof in the *Gazette* or any newspaper.

8. Production of a copy of the *Gazette* in which is published notification of any declaration made under these regulations shall, until the contrary is proved, be sufficient evidence that the declaration was duly made and continues in force.

Measures of Eradication and Control

9. (1) If an Inspector finds a citrus tree growing on any land other than a nursery to be diseased, the Inspector may place on the tree some mark of identification and may, by notice in or to the effect of the form No. 1 in the Schedule hereto delivered to the occupier of the land, require the occupier to destroy or cause to be destroyed within the time specified in that behalf in the notice every diseased citrus tree referred to in the notice together with such other citrus trees identified as aforesaid which the Inspector considers necessary as a precaution against the spread of the disease.

(2) If an Inspector finds a citrus tree growing in any nursery to be diseased, the Inspector may place on the tree some mark of identification and may, by notice in or to the effect of the form No. 2 in the Schedule hereto delivered to the occupier of the nursery, require the occupier to destroy or cause to be destroyed within the time specified in that behalf in the notice every diseased citrus tree referred to in the notice together with every other citrus tree growing in the nursery the trunk of which is within a distance of 200 yards from the trunk of a diseased citrus tree referred to in the notice.

10. If on inspection of any land within twelve months after the date of a notice given pursuant to regulation 9 hereof disease is found in any citrus tree growing thereon, the Inspector may by a like notice delivered to the occupier of the land require the occupier to destroy or cause to be destroyed all the remaining citrus trees growing on the land or such of them as may be specified in the notice.

11. If the occupier of any land to whom any notice has been delivered pursuant to the foregoing provisions of these regulations fails to comply with the requirements of that notice, it shall be lawful for an Inspector to destroy or cause to be destroyed the citrus trees to which the notice relates, at the expense in all things of the occupier, and the cost of the destruction may be deducted from the amount of compensation (if any) payable for the destruction as hereinafter provided.

12. The occupier of any land shall take such steps, whether remedial or precautionary, as may be required of him by an Inspector to render or preserve that land thoroughly free from disease and from infection by disease. Such steps may include the disinfection or other treatment of all tools, implements, appliances, and every other substance, material, article, or thing which may have come into contact with any diseased citrus tree or any portion thereof in such manner as the Inspector shall require.

13. Every person employed in or about an orchard or nursery in which disease is found or coming into contact with the soil of any such orchard or nursery shall comply with the reasonable requirements of an Inspector given with a view to the prevention of the spread of disease, including requirements about changing, cleaning, and disinfecting outer clothing.

14. It shall be lawful for an Inspector in the exercise of the powers conferred by these regulations at all reasonable times to enter upon any land and into any building used for the storage of fruit or for horticultural purposes.

Removal of Citrus Trees

15. No person shall, without the written consent of an Inspector and subject to such conditions as he thinks fit to impose, bring or remove, or cause or permit to be brought or removed, any citrus tree or any fruit or other portion thereof—

- (a) From an infected area to any other land, whether within an infected area or not; or
- (b) Into an infected area from any other land, whether within an infected area or not; or
- (c) From any place or site within an infected area to any other place or site within the same infected area.

16. No citrus tree shall be propagated in any nursery which is within an infected area without the written consent of an Inspector:

Provided that no such consent shall be given in the case of land which is within 200 yards of land on which diseased citrus trees have been within the immediately preceding two years.

17. Nothing in these regulations shall be deemed to prohibit the taking or removal by an Inspector of any citrus tree, or any fruit or other portion thereof, which is properly wrapped for carriage by rail or by other means—

- (a) From an infected area to any place outside the infected area; or
- (b) Through any infected area from any place outside the infected area to any other place outside the infected area—

for special examination for the purpose of identifying disease or for any other purpose authorized in that behalf by the Director.

18. No occupier of any land within an infected area on which are planted any citrus trees shall destroy or otherwise dispose of, or cause or permit to be destroyed or otherwise disposed of, any citrus tree or any fruit or other portion thereof on his land, except in compliance with regulation 9 or regulation 10 hereof.

Reports of Outbreaks of Disease

19. Every person who is the occupier or person in charge of any land planted with any citrus trees (whether or not the land is within an infected area) shall, if he has reasonable grounds for suspecting that disease exists among any citrus trees growing on that land, forthwith notify the nearest Horticultural Inspector or the Director at Wellington to that effect.

Citrus Canker Advisory Committee

20. (1) The Minister may from time to time, by notice under his hand published in the *Gazette*, appoint a committee, to be known as the Citrus Canker Advisory Committee.

(2) The Citrus Canker Advisory Committee shall consist of—

- (a) A person who shall be an employee of the Public Service for the time being on the staff of the Department of Agriculture:
- (b) A person who shall be an employee of the Public Service on the staff of the Department of Scientific and Industrial Research:
- (c) Three persons who shall be growers of citrus fruit to be nominated by the New Zealand Citrus Council (Incorporated):
- (d) One person to be nominated by the New Zealand Horticultural Trades Association (Incorporated):

21. Except as provided by regulation 27 hereof as regards the casting vote of the Chairman, members of the Citrus Canker Advisory Committee appointed pursuant to paragraphs (a) and (b) of subclause (2) of regulation 20 hereof shall not be eligible to vote at any meeting of that Committee.

22. The members of the Citrus Canker Advisory Committee shall hold office during the pleasure of the Minister.

23. The member of the Citrus Canker Advisory Committee who is an employee of the Public Service for the time being on the staff of the Department of Agriculture shall be Chairman of that Committee.

24. Any meeting of the Citrus Canker Advisory Committee shall be held at such time and place as the Committee or the Chairman or any two members thereof may from time to time appoint.

25. At any meeting of the Citrus Canker Advisory Committee three members shall form a quorum.

26. In any case where the Chairman is incapacitated by illness, absence, or other cause from performing the duties of his office, he may appoint some other person (being an employee of the Public Service for the time being on the staff of the Department of Agriculture) as his deputy to act as Chairman during his incapacity, and any such deputy shall, while he acts as such, be deemed to be the Chairman of the Citrus Canker Advisory Committee.

27. At every meeting of the Citrus Canker Advisory Committee the Chairman, in the case of an equality of votes, shall have a casting vote, and a decision reached by voting as aforesaid shall be the decision of the Committee.

28. The Citrus Canker Advisory Committee shall, whenever requested by the Minister so to do, advise the Minister as to any matter referred to the Committee in relation to the eradication or the prevention of the spread of disease within New Zealand.

District Citrus Canker Advisory Committees

29. (1) The Minister may from time to time, by notice under his hand published in the *Gazette*, declare that any part of New Zealand shall be a citrus-growing district for the purpose of these regulations, and may by the same or a subsequent notice appoint for any citrus-growing district a committee to be known as the [*Name of district*] Citrus Canker Advisory Committee.

(2) Each such district committee shall consist of—

(a) One person who shall be an employee of the Public Service for the time being on the staff of the Department of Agriculture:

(b) Two persons who shall be growers of citrus fruit in the district for which the committee is established to be nominated by the New Zealand Citrus Council (Incorporated).

30. The members of any such district committee shall hold office during the pleasure of the Minister.

31. The person appointed to any such district committee pursuant to paragraph (a) of subclause (2) regulation 29 hereof shall be Chairman of the committee.

32. Any meeting of any such district committee shall be held at such time and place as the committee or the Chairman or any two members thereof may from time to time appoint.

33. At any meeting of any such district committee two members, of whom one shall be the Chairman of the committee, shall form a quorum.

34. At every meeting of any such district committee the Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote, and a decision reached by voting as aforesaid shall be the decision of the committee.

35. In any case where the Chairman is incapacitated by illness, absence, or other cause from performing the duties of his office, he may appoint some other person (being an employee of the Public Service for the time being on the staff of the Department of Agriculture) as his deputy to act as Chairman during his incapacity, and any such deputy shall, while he acts as such, be deemed to be the Chairman of the district committee.

36. Each district committee shall, whenever requested by the Director so to do, advise the Director on any matters affecting the administration of these regulations in the district for which the committee is established.

Compensation

37. (1) Where any citrus trees growing on any land have been destroyed on account of disease after the coming into force of these regulations and pursuant to these regulations, every person having any estate or interest in or encumbrance or charge over the land shall be entitled to compensation for the destruction to the extent and subject to the exceptions and conditions hereinafter prescribed.

(2) The said compensation shall be on the basis provided by regulation 44 hereof on an amount assessed as representing the loss (within the limits hereinafter prescribed) which results from the destruction in respect of which the right to compensation arises.

38. Where the land concerned is situate within a citrus-growing district the amount representing the loss shall be assessed by the Citrus Canker Advisory Committee of that district, and in any other case by a committee consisting of any two officers of the Horticulture Division of the Department of Agriculture nominated by the Director:

Provided that, where the land concerned is occupied as a nursery, the appropriate committee shall appoint a person representing the New Zealand Horticultural Trades Association (Incorporated) to be a co-opted member of the committee, and the co-opted member shall have the same voting powers as other members of the committee and shall be deemed for all purposes to be a member of the committee.

39. In the case of any citrus tree which has not come into bearing at the date of destruction the amount to be assessed as representing the loss as aforesaid shall not exceed the amount determined in accordance with the table set out in this clause and shall vary according to whether the citrus tree was growing in a nursery or any other orchard, and in the latter case according to the period between the date of planting in the orchard and the date of destruction:—

Description of Citrus Tree	Maximum Amount for Each Citrus Tree.
	s. d.
Tree in nursery	3 0
Tree in other orchard: period between planting and destruction—	
Under one year	5 0
One year but less than two years	6 0
Two years but less than three years	7 0
Three years but less than four years	8 0
Four years but less than five years	9 0
Five years and over	10 0

40. In the case of any citrus tree which has come into bearing at the date of destruction the amount to be assessed as representing the loss shall be such sum, being not less than 10s. nor more than £7, as is determined by the committee to be the value of the tree.

41. In assessing an amount representing loss in respect of any citrus tree or in discharging any other function under these regulations the committee may act on the personal knowledge of the members thereof and any information in the possession of members of the committee without taking evidence or hearing parties.

42. If any question arises as to whether any citrus trees have been destroyed on account of disease, or pursuant to these regulations, the district committee may decide the question, and the decision of the district committee shall be final.

43. Forthwith after assessing an amount representing any loss in respect of citrus trees under these regulations the committee shall furnish the Director with full particulars of the amounts so assessed.

44. The amount of compensation payable under these regulations shall be the amount assessed by the committee, reduced in the case of citrus trees which were declared by an Inspector to be diseased and which were destroyed pursuant to a notice under subclause (1) of regulation 9 hereof by an amount equal to $12\frac{1}{2}$ per cent thereof.

45. Notwithstanding anything hereinbefore contained, no compensation shall be payable for the destruction of citrus trees growing on any land—

- (a) If the trees destroyed are growing in a nursery and are diseased; or
- (b) If the trees destroyed are nursery citrus trees that have not been budded or grafted, or trees that have been budded or grafted but have not already made some growth from the bud or graft; or
- (c) If the owner, occupier, or person in charge of that land obstructs an Inspector or any person employed by an Inspector in carrying out the provisions of these regulations.

46. Notwithstanding anything hereinbefore contained, no compensation shall be payable under these regulations for trees growing on any land unless and until the measures ordered by an Inspector have been taken and carried out in respect of that land to the satisfaction of the Inspector.

47. Application for compensation shall be made in writing to the Inspector for the locality in which the land of the owner or occupier is situate, and shall set out the name, address, and description of every person having any estate or interest in or encumbrance or charge over the land concerned.

48. (1) Where more persons than one claim or appear to be entitled to compensation in respect of the destruction of citrus trees on any land and they agree as to the apportionment of the compensation, the proportion of compensation payable to each such person shall be such sum as may be mutually agreed upon between them.

(2) If the parties concerned fail to agree as to the proportion of compensation payable to each of them, the compensation may, in the discretion of the Minister, be paid to any owner, occupier, or encumbrancer of the land concerned upon his furnishing an indemnity with two sureties approved by the Minister indemnifying the Crown against all claims and demands made by any other person claiming any estate or interest in or encumbrance or charge over that land.

49. Where citrus trees are destroyed pursuant to the Act or these regulations the whole of the compensation payable pursuant to regulation 44 hereof shall be paid as soon as practicable after the destruction, subject, however, to the provisions of regulation 46 hereof.

50. All payments of compensation shall be made out of moneys appropriated by Parliament for the purpose.

Offences

51. Every person commits an offence against the Act and shall be liable accordingly to a fine not exceeding £20 who—

- (a) Fails to observe or perform any duty or obligation directly or by implication placed upon him by these regulations; or
- (b) Does anything contrary to the provisions thereof; or
- (c) Obstructs or refuses to carry out any direction given by an Inspector acting under the authority of these regulations; or
- (d) Makes any false or misleading statement in connection with any application for compensation under these regulations or in connection with any matter incidental thereto.

52. (1) The Citrus Canker Regulations 1945* are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

* Statutory Regulations 1945, Serial number 1945/177, page 451.

SCHEDULE

Form No. 1

Reg. 9 (1)

The Citrus Canker Regulations 1952

NOTICE TO DESTROY CITRUS TREES

To

TAKE notice that, in consequence of an inspection made on the day of 19..... of the orchard (premises) occupied by you and situate at, the disease known as citrus canker has been found to exist therein, and, in pursuance of subclause (1) of regulation 9 of the Citrus Canker Regulations 1952, I hereby require you to destroy, within days after service upon you of this notice, those citrus trees planted therein which I have for purposes of identification marked on the trunk with the following brand or mark—.....—and of which trees are diseased.

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by section 16 of the Orchard and Garden Diseases Act 1928, the destruction of the said citrus trees may be effected at your expense.

Dated at, this day of 19.....

.....
Inspector under the Orchard and Garden
Diseases Act 1928.

Form No. 2

Reg. 9 (2)

The Citrus Canker Regulations 1952

NOTICE TO DESTROY CITRUS TREES IN A NURSERY

To

TAKE notice that, in consequence of an inspection made on the day of 19.... of the nursery occupied by you and situate at, the disease known as citrus canker has been found to exist therein, and, in pursuance of subclause (2) of regulation 9 of the Citrus Canker Regulations 1952, I hereby require you to destroy, within days after service upon you of this notice, those diseased citrus trees planted therein which I have for purposes of identification marked on the trunk with the following brand or mark—.....—together with all other citrus trees planted in the nursery which are within a radius of yards from any of the trees so marked and of which trees qualify for compensation under the said regulations.

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by section 16 of the Orchard and Garden Diseases Act 1928, the destruction of the said citrus trees may be effected at your expense.

Dated at, this day of 19....

Inspector under the Orchard and Garden
Diseases Act 1928.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

[*This note is not part of the regulations, but is intended to indicate their general effect.*]

These regulations take the place of the Citrus Canker Regulations 1945, and contain the following new provisions:—

- (a) Inspectors are authorized to declare as infected areas orchards on which the disease is found, together with any other land within 500 yards of any diseased tree;
- (b) All nursery citrus trees within 200 yards of a diseased tree found in a nursery may be destroyed;
- (c) Compensation is made payable on all orchard citrus trees destroyed, whether in a domestic or commercial orchard;
- (d) No compensation is payable for diseased nursery trees;
- (e) Graduated deductions of compensation based on the size of the orchard are discontinued;
- (f) Provision is made for the setting up of a Dominion Citrus Canker Advisory Committee to advise the Minister of Agriculture on any matter referred to the Committee in relation to the eradication or prevention of the spread of the disease.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 June 1952.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 5268.)