

1967/127



## THE FOREST DISEASE CONTROL REGULATIONS 1967

BERNARD FERGUSON, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 14th day of June 1967

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Forests Act 1949, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### ANALYSIS

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Forest Disease Control Regulations 1967.

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

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“Authorised Forest Officer” means a Conservator of Forests or an Acting Conservator of Forests or an Assistant Conservator of Forests, or any other Forest Officer in whom the powers of an authorised Forest Officer within the meaning of these regulations is vested by delegation under the hand of the Director-General:

“Committee” means a Forest Disease Control Advisory Committee constituted under regulation 17 of these regulations:

“Director-General” means the Director-General of Forests:

“Forest disease” means a “disease” within the meaning of section 70 (3) of the Forests Act 1949:

“Forest produce” means anything that may be affected by a forest disease; and includes plants, trees, tree seed, firewood, timber, forests, forest products, buildings, and other structures, and extends to portions or fragments thereof:

“Forest Service” means the New Zealand Forest Service:

“Infected area” means any area declared by an authorised Forest Officer pursuant to these regulations to be an infected area:

“Minister” means the Minister of Forests.

*Diseases*

**3. Diseases**—The diseases specified in the First Schedule hereto are hereby declared to be diseases within the meaning of section 70 of the Forests Act 1949.

*Declaration of Infected Area*

**4. Declaration of infected area**—(1) In any case where an authorised Forest Officer is of the opinion that a forest disease exists in any area, he may,—

(a) Where the disease is one of the diseases specified in the Second Schedule hereto; or

(b) With the prior approval of the Minister (or of the Director-General in the absence of the Minister)—

by writing under his hand, declare the area to be an infected area in respect of that disease, and cause the declaration to be published immediately for three consecutive days in any newspaper circulating in the area.

(2) Every such declaration shall come into effect,—

(a) In respect of an area defined as the whole or any part of a county within the meaning of the Counties Act 1956, or as the whole or any part of a borough within the meaning of the Municipal Corporations Act 1954, upon the first publication of the declaration as aforesaid:

(b) In respect of an area defined as or in relation to any particular parcel or parcels of land, upon a copy of the declaration being served on the owner or occupier in the following manner—

(i) By being left at the last known place of abode or business in New Zealand of the person to be served or by being affixed or left for him on the area or any house or building situated on the area appearing to be owned or occupied by him; or

(ii) By being sent by post in a registered letter addressed to the person to be served, by name, at his aforesaid place of abode or business in New Zealand.

(3) A copy so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered, and any such copy shall be deemed sufficiently served although addressed to the owner or occupier by that designation only, without his name, or generally to the persons interested, without any name, and notwithstanding that any person to be affected by the declaration is absent, under disability, unborn, or unascertained.

**5. Owner to be notified of declaration**—Every occupier of land contained in an infected area so declared, on becoming aware of the declaration, and every occupier of land on whom a copy of a declaration of an infected area has been served under subclause (2) of regulation 4 hereof, shall forthwith notify to the owner of the land, and every person having any estate or interest in the land so far as the name and address of the owner or person is known to the occupier, of the contents of the declaration.

**6. Declaration to be notified to Director-General and published in Gazette**—Upon an authorised Forest Officer making any declaration under regulation 4 hereof, he shall forthwith notify the Director-General of the declaration, and the Director-General shall as soon as possible cause a copy of the declaration to be published in the *Gazette*.

**7. Revocation or modification of declaration**—Any declaration of an infected area made under these regulations may at any time, by writing under the hand of the Director-General, be wholly or partially revoked or modified; and the revocation or modification shall take effect upon notification thereof in the same manner as the principal declaration.

**8. Evidence of declaration**—Production of a copy of the *Gazette* in which is published a copy 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 Control or Eradication*

**9. Notice to destroy or treat**—(1) An authorised Forest Officer may,—

(a) By notice in or to the effect of form No. 1 in the Third Schedule hereto served on either the owner or the occupier of any land situated within an infected area, require that owner or occupier to destroy or cause to be destroyed within the time specified in the notice such forest produce on the said land or on any part thereof as may be specified in the notice:

(b) By notice in or to the effect of form No. 2 in the Third Schedule hereto served on any such owner or occupier, require that owner or occupier to treat or cause to be treated in the manner and within the time specified in the notice such forest produce on the said land or on any part thereof as may be specified in the notice.

(2) Any such notice or notices may be served from time to time in accordance with the provisions for service set out in paragraph (b) of subclause (2) of regulation 4 hereof; and the provisions of that paragraph and of subclause (3) of that regulation shall apply as if every such notice were a declaration.

**10. Destruction or treatment of forest produce**—If the owner or occupier of any land to whom any notice is delivered pursuant to the foregoing provisions of these regulations fails to comply with the requirements of that notice, it shall be lawful for an authorised Forest Officer to destroy or treat, or cause to be destroyed or treated, the forest produce to which the notice relates, at the expense of the owner or occupier, and in any case where there is no apparent owner or occupier of any land within an infected area, an authorised Forest Officer may forthwith take such steps as aforesaid.

**11. Requirements of authorised Forest Officer to be complied with**—The owner or occupier of any land within an infected area shall take such steps, whether remedial or precautionary, as may be required of him by an authorised Forest Officer to render or preserve the said land thoroughly free from forest disease. The steps may include the disinfection or other treatment of all tools, implements, appliances, and every other substance, material, article, and thing which may have come into contact with any diseased forest produce in such manner as an authorised Forest Officer may require.

**12. Persons employed in or entering or leaving infected area**—Every person employed in or about, or entering or leaving, any land within an infected area or coming into contact with the forest disease specified in the declaration of the infected area, shall comply with the reasonable requirements of an authorised Forest Officer given with a view to the prevention of the spread of that forest disease, including requirements about changing, cleaning, and disinfecting outer clothing.

**13. Right of entry by authorised Forest Officers**—It shall be lawful for an authorised Forest Officer at all reasonable times to enter on any land or premises where trees or forests are growing or tree seed or timber or forest products are lying or stored or stacked, for the purpose of inspecting them or, in any case where default has been made in complying with any of the requirements of these regulations, for the purpose of carrying out those requirements at the expense of the person making default.

#### *Removal of Plants and Produce*

**14. Restrictions on moving forest produce from, into, or within an infected area**—No person shall, without the written consent of an authorised Forest Officer and subject to such conditions as he thinks

fit to prescribe, bring or remove any forest produce, or cause any forest produce to be brought or removed,—

- (a) From an infected area to any other land, whether an infected area or not; or
- (b) Into an infected area from any other land, whether 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:

Provided that the foregoing provisions of this regulation shall not affect any forest produce treated in accordance with specifications prescribed in writing by an authorised Forest Officer.

**15. Movement of forest produce for examination**—Nothing in these regulations shall prevent an authorised Forest Officer from taking or removing, by rail or other means, any forest produce which is properly wrapped for carriage—

- (a) Through any part of 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 forest disease or for any other purpose authorised in that behalf by the Director-General.

**16. Restriction on destruction of forest produce within infected area**—

The owner or occupier of any land within the infected area shall not cause or permit to be destroyed or otherwise disposed of any forest produce which is on that land and is affected or likely to be affected with the forest disease mentioned in the declaration as an infected area under regulation 4 hereof, except in compliance with regulation 9 hereof.

*Forest Disease Control Advisory Committee*

**17. Forest Disease Control Advisory Committee**—(1) The Minister may from time to time set up an advisory committee which shall be known as the Forest Disease Control Advisory Committee.

(2) The Committee shall consist of—

- (a) A Chairman, being a Forest Officer appointed from time to time by the Director-General:
- (b) A Forest Officer, being a member of the staff of the Forest Research Institute, appointed from time to time by the Director-General:
- (c) Three members appointed from time to time by the Association, Board, Council, or other body or group formed by owners of any forest produce affected by the forest disease specified in any declaration of an infected area, or if there is no such body or group by the Minister:
- (d) One member appointed by the New Zealand Institute of Foresters (Incorporated):
- (e) One member appointed by the Association, Board, Council, or other body or group formed by the persons engaged in producing or promoting or utilising the forest produce affected or likely to be affected by the forest disease specified in any declaration of the infected area, or if there is no such body or group by the Minister.

(3) Where any member of the Committee is for any reason unable to attend any meeting of the Committee, a substitute who is eligible to be appointed as a member of the Committee in his place may be appointed in the same manner as that member either generally or for that meeting, and the substitute shall be entitled to attend every meeting for which he is so appointed instead of the member.

(4) While any person is attending any meeting of the Committee in accordance with authority conferred under subclause (3) of this regulation, he shall be deemed for all purposes to be a member of the Committee.

(5) The fact, duly recorded in the minutes of any meeting of the Committee, that a person has attended that meeting in one of the capacities specified in the foregoing provisions of this regulation shall be sufficient evidence of his authority to do so in the absence of proof to the contrary.

**18. Chairman of Committee—**(1) The Chairman of the Committee shall be the Forest Officer appointed by the Director-General of Forests pursuant to paragraph (a) of subclause (2) of regulation 17 of these regulations, or (in his absence from any meeting for any reason) the person attending the meeting in his place pursuant to subclause (3) of regulation 17 of these regulations.

(2) The Chairman of any meeting of the Committee shall have a deliberative vote and also a casting vote.

**19. Committee to advise Minister—**The Committee shall, whenever requested by the Minister so to do, advise the Minister regarding the eradication or control of a forest disease specified in any declaration of an infected area.

**20. Meetings of Committee—**(1) Meetings of the Committee shall ordinarily be held at such time and place as may be stated in each case by or on behalf of the Chairman in a notice convening the meeting.

(2) Previous to any meeting of the Committee, notice to attend the meeting, signed by or on behalf of the Chairman, shall be sent through the Post Office or delivered to the ordinary business address of each member not less than 21 days before the date appointed for the meeting:

Provided that in case of emergency the said period may be reduced.

(3) At any meeting of the Committee four members shall form a quorum.

(4) Every question before any meeting of the Committee shall be determined by a majority of the votes of the members present and voting thereon.

(5) The use of proxies shall not be permitted.

(6) Except as expressly provided in these regulations, the Committee may regulate its procedure in such a manner as it thinks fit.

(7) The Committee or any subcommittee may by resolution authorise any person to attend its meetings or any of them as a non-voting observer.

**21. Minutes of meetings**—(1) Proper minutes shall be kept of the proceedings of each meeting of the Committee in a book or file to be kept for that purpose.

(2) Any such minutes, if purporting to be signed by the Chairman of the meeting to which they relate or of the next succeeding meeting, shall, after due confirmation and in the absence of proof to the contrary, be sufficient evidence of the matters stated in those minutes.

(3) Where minutes of any proceedings of the Committee at any meeting have been made in accordance with this regulation, then, until the contrary is proved, the meeting shall be presumed to have been duly convened and held, and all proceedings had thereat shall be presumed to have been duly conducted.

**22. Secretary of the Committee**—The Director-General may from time to time designate an officer of the Forest Service to act as secretary of the Committee for the purpose of issuing notices, keeping minutes, and performing general clerical duties for the Committee.

**23. Committee may appoint subcommittees** —(1) The Committee may from time to time appoint subcommittees of its members for the purposes of gathering data, drafting reports, and other preparatory work in relation to the purposes of the Committee.

(2) The provisions of subclauses (3), (4), and (5) of regulation 17 of these regulations shall apply to the members of any such subcommittee so far as they are applicable and with the necessary modifications.

#### *Miscellaneous Provisions*

**24. Offences**—(1) Every person commits an offence who—

- (a) Fails to comply with or acts in contravention of any provision of these regulations; or
- (b) Obstructs or refuses to carry out any direction given by an authorised Forest Officer acting upon the authority of these regulations.

(2) Every person who commits any such offence is liable on summary conviction—

- (a) In the case of an individual, to imprisonment for a term not exceeding one month, or to a fine not exceeding one hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day during which the offence continues, or to both such imprisonment and such fine;
- (b) In the case of a body corporate, to a fine not exceeding five hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding fifty pounds for every day during which the offence continues.

## SCHEDULES

## FIRST SCHEDULE

## Reg. 3

DISEASES WITHIN THE MEANING OF SECTION 70 OF THE FORESTS ACT 1949

| <i>Fungus Disease</i>    | <i>Causal Fungus</i>                         |
|--------------------------|--|
| Oak Wilt                 | <i>Ceratocystis Fagacearum</i> (Bretz) Hunt. |
| Terminal Crook           | A <i>Colletotrichum</i> Species.             |
| Pine Needle Blight       | <i>Dothistroma Pini</i> Hulbary.             |
| Pine Needle Cast         | <i>Elytroderma Deformans</i> (Weir) Darker.  |
| Red Ring Rot             | <i>Fomes Pini</i> (Thore) Lloyd.             |
| Pitch Canker             | <i>Fusarium Lateritium F. Pini</i> Hepting.  |
| Grey Needle Blight       | <i>Hypoderma Lethale</i> Dearness.           |
| Western Gall Rust        | <i>Peridermium Harknessii</i> J. P. Moore.   |
| Brown-spot Needle Blight | <i>Scirrhia Acicola</i> (Dearn.) Siggers.    |

| <i>Insect Disease<br/>(Common name)</i> | <i>Insect Scientific Name</i>            |
|---|--|
| Carpenter Ant                           | <i>Camponotus Herculeanus</i> L.         |
| Southern Pine Beetle                    | <i>Dendroctonus Frontalis.</i> (Zimm.)   |
| Mountain Pine Beetle                    | <i>Dendroctonus Monticolae</i> Hopkins.  |
| Pitch and Cone Moth                     | <i>Dioryctria Abietella.</i> (D. and S.) |
| Pine Sawfly                             | <i>Diprion Pini.</i> (L.)                |
| European House Borer                    | <i>Hylotrupes Bajulus</i> L.             |
| Pine Bark Beetle                        | <i>Ips Grandicollis.</i> (Eichh.)        |
| Gypsy Moth                              | <i>Porthetria Dispar</i> L.              |

## SECOND SCHEDULE

## Reg. 4 (1)

## SPECIFIED FOREST DISEASES

| <i>Fungus Disease</i>                    | <i>Causal Fungus</i>              |
|--|-----------------------------------|
| Terminal Crook                           | A <i>Colletotrichum</i> species.  |
| Pine Needle Blight                       | <i>Dothistroma pini</i> Hulbary.  |
| <i>Insect Diseases<br/>(Common name)</i> | <i>Insect Scientific Name</i>     |
| Carpenter Ant                            | <i>Camponotus herculeanus,</i> L. |
| Pine Bark Beetle                         | <i>Ips grandicollis.</i> (Eichh.) |



## THIRD SCHEDULE

## FORMS

Form No. 1

Reg. 9 (1) (a)

*The Forest Disease Control Regulations 1967*

## NOTICE TO DESTROY

To (*Name, address*)

TAKE notice that, in consequence of an inspection made on the ..... day of ..... 19.... of the ..... owned or occupied by ..... and situated at ....., the forest disease known as ..... has been found to exist therein, and pursuant to regulation 9 of the Forest Disease Control Regulations 1967, I hereby require you to destroy within ..... after service upon you of this notice that/those ..... on your land which I have identified in the following manner, viz:

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by regulation 24 of the said regulations, the destruction of the said ..... may be effected at your expense.

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

Authorised Forest Officer under the Forest  
Disease Control Regulations 1967.

Form No. 2

Reg. 9 (1) (b)

*The Forest Disease Control Regulations 1967*

## NOTICE TO TREAT FOREST PRODUCE

To (*Name, address*)

TAKE notice that, in consequence of an inspection made on the ..... day of ..... 19.... of the ..... owned or occupied by ..... and situated at ....., the forest disease known as ..... has been found to exist therein, and pursuant to regulation 9 of the Forest Disease Control Regulations 1967, I hereby require you to carry out the treatment set out in the Schedule hereto within ..... after service upon you of this notice.

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by regulation 24 of the said regulations, the treatment may be effected at your expense.

## Schedule

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

Authorised Forest Officer under the Forest  
Disease Control Regulations 1967.

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 specify certain insects and diseases as forest diseases, and prescribe measures to be taken for the eradication or control of forest diseases where they occur. The regulations provide—

- (a) That certain specified diseases shall be diseases within the meaning of section 70 of the Forests Act 1949:
- (b) That areas where specified serious diseases exist may be declared as infected areas:
- (c) That owners or occupiers of land in infected areas may be required to destroy or treat affected material:
- (d) For restrictions on the removal of forest produce from or into or within an infected area:
- (e) For the setting up of an advisory committee to advise the Minister in relation to the eradication or spread of forest diseases.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 15 June 1967.

These regulations are administered in the New Zealand Forest Service.