

Serial Number 1939/41.



THE NURSERY REGISTRATION REGULATIONS 1939.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 19th day of April, 1939.

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, doth hereby make the following regulations.

REGULATIONS.

REGULATION 1.—PRELIMINARY.

✓ (1) These regulations may be cited as the Nursery Registration Regulations 1939.

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

✓ (3) In these regulations, unless inconsistent with the context,—

“The said Act” means the Orchard and Garden Diseases Act, 1928 :

“Director” means the Director of the Horticulture Division of the Department of Agriculture :

“Inspector” means an Inspector appointed under the said Act :

“Nursery” means any land or place which is used for the raising or growing of any prescribed trees or plants intended for sale for replanting :

“Occupier,” in the case of any nursery which is unoccupied or whose actual occupier is unknown or cannot be found, includes the owner :

“Prescribed tree or plant” means any fruit-tree or plant, tomato-plant, timber or shelter tree or plant, hedge-plant, ornamental tree or shrub, or rose-plant :

“Sell” means to exchange for money or barter, and includes offering for sale by means of printed or published or written advertisement or other means, and also includes exposing for sale, or sending or delivering for sale, or allowing to be sold or offered or exposed for sale ; and “sale” has a corresponding meaning.

* See end note.

(4) The regulations relating to the registration of nurseries made on the 19th day of June, 1916,* under the Orchard and Garden Diseases Act, 1908, and enuring under the said Act are revoked.

(5) All certificates, registers, notices, and generally all Acts of authority and all other documents, matters, acts, and things which originated under the regulations hereby revoked and are of continuing effect at the time of the coming into force of these regulations shall enure for the purposes of these regulations as fully and effectually as if they had originated under the corresponding provisions of these regulations, and accordingly shall, where necessary, be deemed to have so originated.

(6) All matters and proceedings commenced under the regulations hereby revoked and pending or in progress at the time of the coming into force of these regulations may be continued, completed, and enforced under these regulations.

REGULATION 2.—SALE OF PRESCRIBED TREES AND PLANTS.

(1) No person, whether by himself, his servant, or agent, shall sell or offer for sale for replanting any prescribed tree or plant raised or grown in New Zealand, other than an indigenous tree or plant that has not been cultivated, unless such prescribed tree or plant—

(a) Has been raised or grown in a nursery in respect of which a certificate of registration has been issued and is for the time being in force pursuant to the provisions of these regulations; and

(b) If raised or grown in a nursery in respect of which a certificate of unconditional registration has been suspended or in respect of which a certificate of conditional registration has been issued and is for the time being in force pursuant to these regulations, and if of one of the kinds specified in the notice of suspension or certificate of conditional registration as requiring treatment in manner prescribed by the Director therein has been so treated, and unless such treatment has been verified by the certificate of an Inspector issued pursuant to these regulations.

(2) No person, whether by himself, his servant, or agent, shall sell or offer for sale for replanting from a nursery any prescribed tree or plant raised or grown in New Zealand, other than an indigenous tree or plant that has not been cultivated, if at the time of offering for sale or at the time of sale or at the time of delivery such tree or plant is affected with disease unless such tree or plant has been treated in such manner as to destroy the disease.

(3) No person, whether by himself, his servant, or agent, shall sell or expose for sale for replanting any prescribed tree or plant unless and until a tag or label bearing thereon the name and address of the occupier of the nursery in which such tree or plant was raised or grown is affixed thereto or to the package or parcel containing the same.

* *Gazette*, 22nd June, 1916, Vol. II, page 2001.

(4) Any prescribed tree or plant which is sold shall be deemed to have been sold for replanting unless such tree or plant—

- (a) Is in such a condition as to preclude the probability of its growing ; or
- (b) Is proved by the seller to have been sold for a purpose other than replanting.

(5) The onus of proving that any prescribed tree or plant sold for replanting has been grown or raised in a nursery in respect of which a certificate of unconditional registration is for the time being in force, or in the case of a nursery in respect of which a certificate of conditional registration is for the time being in force that such prescribed tree or plant is covered by an Inspector's certificate of treatment as required by clauses (1) and (2) of Regulation 7 hereof, shall rest upon the seller.

REGULATION 3.—APPLICATIONS FOR REGISTRATION.

(1) Every person who after the coming into force of these regulations proposes to use any place as a nursery shall, not less than one month before any prescribed tree or plant is sold therefrom for replanting, make application in writing to the Director in the form numbered 1 in the Schedule hereto for the registration of such place, and such application shall be accompanied by the prescribed fee.

(2) Every certificate of conditional or unconditional registration issued pursuant to these regulations or enuring for the purposes of these regulations pursuant to clause (5) of Regulation 1 hereof shall, subject to the provisions of these regulations, expire on the 30th day of April next following the date of issue thereof.

(3) Every person who is the occupier of a nursery in respect of which a certificate of unconditional registration or a certificate of conditional registration is in force and who desires a continuation of registration shall, not later than the 1st day of April in each year, make application in writing to the Director for the re-registration thereof in the said form numbered 1 accompanied by the prescribed fee and by the expiring certificate of registration.

(4) If continuation of registration is not desired, the occupier of a nursery shall not later than the 1st day of April in any year give the Director notice in writing in that behalf.

(5) There shall be payable in respect of every application for registration of a nursery a fee of £1 :

Provided that if a certificate of conditional registration is issued in respect of such nursery or if registration is refused, then subject to appropriation by Parliament of funds for that purpose the fee shall be refunded to the applicant.

REGULATION 4.—REGISTRATION OF NURSERIES.

(1) If as the result of inspection by an Inspector the Director is satisfied that the nursery in respect of which an application for registration is made is free from disease, the Director shall issue to the applicant a certificate of unconditional registration in the form numbered 2 in the Schedule hereto.

(2) Notwithstanding the provisions of clause (1) of this regulation, if as the result of inspection by an Inspector the Director is of opinion that disease exists on the land of any applicant for registration adjacent to the nursery in respect of which the application for registration is made, the Director may withhold a certificate of registration in respect of such nursery until the applicant has taken such measures as the Director considers necessary to eradicate or prevent the spread of disease on or from such adjacent land.

(3) A certificate of unconditional registration shall remain in force until the 30th day of April next following the date of issue thereof, unless it is sooner suspended as provided in the next succeeding regulation.

(4) If on application for the registration of any nursery the Director is not satisfied as the result of inspection by an Inspector of such nursery that the said nursery is free from disease, he may in his discretion issue to the applicant a certificate of conditional registration in respect of such nursery in the form numbered 3 in the Schedule hereto.

(5) Every certificate of conditional registration in respect of any nursery shall define the treatment to which prescribed trees or plants or any specified kind of prescribed tree or plant grown or raised therein shall be subjected by the occupier of the nursery in the presence of an Inspector before such trees or plants or any specified kind of prescribed tree or plant may be sold for replanting to any person.

(6) No prescribed tree or plant shall be deemed to have been subjected to treatment defined in a certificate of conditional registration unless and until an Inspector has issued to the occupier of the nursery in which such prescribed tree or plant is grown or raised a certificate of treatment in the form numbered 4 in the Schedule hereto certifying that the defined treatment has been effectively carried out in the presence of an Inspector.

(7) A copy purporting to be given under the hand of the Director as a copy of a certificate of registration shall be *prima facie* evidence of such certificate, and a statement purporting to be given under the hand of the Director and setting out that no certificate of registration or no certificate of unconditional registration is in force or that a certificate has been suspended shall be *prima facie* evidence of the facts therein stated as at the date of that statement.

REGULATION 5.—SUSPENSION OF UNCONDITIONAL REGISTRATION.

(1) If as the result of inspection by an Inspector of a nursery in respect of which a certificate of unconditional registration is in force any trace of disease is found therein, or if pursuant to section 8 of the said Act the occupier of the nursery notifies the presence of any disease therein, the Director shall, by notice in writing to the registered occupier in the form numbered 5 in the Schedule hereto, suspend in whole or in part the unconditional operation of such certificate for such time as he deems fit, and shall in such notice prohibit sale or distribution from the nursery of prescribed trees or plants, either generally or in respect of any specified kind of prescribed tree or plant, unless and until they have been treated in the manner defined in the notice.

(2) The registered occupier of any nursery in respect of which a notice of suspension is in force, if in his opinion the ground of suspension no longer exists, may, by application in writing to the Director in the form numbered 6 in the Schedule hereto, accompanied by a fee of 10s., apply for removal of the suspension.

(3) As soon as practicable after the receipt of such application and fee the Director shall arrange for a special inspection of such nursery accordingly.

(4) If as the result of such inspection the Inspector finds that the disease on account of which the said certificate was suspended has been effectively treated, the Director shall, on receipt of the report of the Inspector, forthwith by notice in writing to the registered occupier remove the suspension, and the certificate of unconditional registration in respect of such nursery shall thereupon be revived and shall continue in force for the remainder of its term unless it is again suspended pursuant to these regulations.

REGULATION 6.—REMOVAL OF CONDITIONS OF REGISTRATION.

(1) The registered occupier of a nursery in respect of which a certificate of conditional registration is in force may, by application in writing to the Director in the form numbered 7 in the Schedule hereto, apply for a special inspection of such nursery for the purpose of obtaining a certificate of unconditional registration in respect thereof.

(2) Every such application shall be accompanied by an application fee of 10s.

(3) As soon as practicable after the receipt of such application and fee the Director shall arrange for a special inspection of such nursery accordingly.

(4) If as the result of such inspection the Inspector finds that the disease on account of which the certificate of registration granted in respect of such nursery was made conditional has been effectively treated and that the said nursery is free from disease, the Director shall, on receipt of the report of the Inspector and subject to the payment of the fee prescribed by Regulation 3 hereof, grant to the registered occupier a certificate of unconditional registration in respect of the said nursery, which shall take effect from the date of the issue thereof and shall continue in force for the remainder of the term for which the certificate of conditional registration was granted unless it is suspended pursuant to these regulations.

REGULATION 7.—CERTIFICATE OF TREATMENT.

(1) The registered occupier of a nursery in respect of which a certificate of conditional registration is in force or in respect of which a certificate of unconditional registration is for the time being suspended may, for the purpose of obtaining a certificate of treatment in respect of any prescribed tree or plant, make application in writing to the Director or to the Inspector for the district in which the nursery is situated in the form numbered 8 in the Schedule hereto.

(2) The Inspector shall, as soon as practicable after the receipt of such application, proceed to the nursery and shall give to the registered occupier reasonable notice of the date on which he intends to be present at the nursery, and shall, when the defined treatment in respect of such prescribed tree or plant has been effectively carried out in the presence of the Inspector, issue to the registered occupier of the nursery the required certificate of treatment in the form numbered 4 in the Schedule hereto.

(3) The following fees shall be payable in respect of each treatment certificate applied for:—

(a) For the first treatment certificate applied for by the occupier of a nursery in respect of which a certificate of conditional registration is in force—2s. 6d. for each hour of the Inspector's time occupied, including the actual or estimated time taken by the Inspector to travel from his headquarters to the nursery, with a minimum charge of £2.

(b) For each treatment certificate subsequently applied for during the currency of the same certificate of registration—5s. for each hour of the Inspector's time occupied, including the actual or estimated time taken by the Inspector to travel from his headquarters to the nursery, with a minimum charge of 10s.

(c) For each treatment certificate applied for by the occupier of a nursery in respect of which a certificate of unconditional registration has been suspended as provided in Regulation 5 hereof—2s. 6d. for each hour of the Inspector's time occupied, including the actual or estimated time taken by the Inspector to travel from his headquarters to the nursery, with a minimum charge of 5s.

(4) All fees incurred under this regulation shall be payable forthwith on completion of treatment, and may be recovered from the registered occupier of the nursery as a debt due to the Crown in any Court of competent jurisdiction.

REGULATION 8.—TRANSFERS.

(1) A certificate of conditional or unconditional registration of any nursery may, on application in writing to the Director in the form numbered 9 in the Schedule hereto and without fee, be transferred to the new occupier of the nursery.

(2) Upon receipt by the Director of the said application duly signed by transferor and transferee the transferee therein named shall thenceforth be deemed the registered occupier of the nursery for the purposes of these regulations.

REGULATION 9.—GENERAL.

(1) Any certificate of registration, notice of suspension, or other document may be issued or given to an applicant for registration or to a registered occupier by registered-post letter addressed to the occupier at the address of the nursery as set out in the application for

registration, and shall be deemed to be issued or given at the time when it would be delivered at that address in the ordinary course of registered post, and shall be sufficient notwithstanding that the registered occupier or other person to whom the document is sent is no longer the occupier of the nursery.

(2) The prohibition of the sale or distribution of prescribed trees or plants from any registered nursery shall not affect any liability of the occupier thereof or any other person for a breach of any of the provisions of the said Act or of any regulations made thereunder.

(3) Every person who sells or delivers for sale, or allows to be sold or delivered for sale, from a nursery any prescribed tree or plant contrary to the provisions of these regulations commits an offence against these regulations.

(4) Any of the forms included in the Schedule hereto may be obtained free of charge on application to the Director or any Inspector or at any district office of the Department of Agriculture.

SCHEDULE.

[Form No. 1.

APPLICATION FOR REGISTRATION OF A NURSERY.

To the Director of the Horticulture Division,
Department of Agriculture,
Private Bag, Wellington, C. 1.

Full name of applicant :

Full postal address of nursery :

Situation of nursery : At or near (Section No., Block No., in the Survey District [*or similar description*]).

Area of nursery : acres.

Kind of nursery [*State whether for tomato-plants only, strawberry-plants only, other particular plants, to be named, only, or general nursery, or as the case may be*].

I hereby apply, in pursuance of the regulations under the Orchard and Garden Diseases Act, 1928, for the registration of the above-described nursery, of which I am the occupier.

The registration fee of £1 is enclosed, together with the expiring certificate of registration (if any).

Dated this day of, 19..

Signature :

[Form No. 2.

CERTIFICATE OF UNCONDITIONAL REGISTRATION OF A NURSERY.

I HEREBY certify that the nursery occupied by, of, and comprising acres, or thereabouts, being Section No., Block No., in the Survey District [*or similar description*], at or near is unconditionally registered as a nursery in terms of the Orchard and Garden Diseases Act, 1928, and the regulations thereunder.

This certificate shall remain in force until the 30th April, 19.., unless previously suspended as provided by the said regulations.

Dated this day of, 19..

.....
Director of the Horticulture Division.

[Form No. 3.

CERTIFICATE OF CONDITIONAL REGISTRATION OF A NURSERY.

I HEREBY certify that the nursery occupied by, of, and comprising acres, being Section No., Block No., in the Survey District [*or similar description*], at or near, is conditionally registered as a nursery in terms of the Orchard and Garden Diseases Act, 1928, and the regulations thereunder.

This certificate shall remain in force until the 30th April, 19..

The conditions attaching to this registration are as follows: All trees or plants of the undermentioned kinds must be treated as shown below in the presence of an Inspector before being sold or distributed, and a certificate of treatment must be obtained from the Inspector before any such sale or distribution takes place.

Kind of Tree or Plant.	Treatment.

Dated this day of, 19..

.....
Director of the Horticulture Division.

[Form No. 4.

CERTIFICATE OF TREATMENT OF NURSERY STOCK.

To

I HEREBY certify that trees or plants have been effectively treated in my presence as follows:—

Date of Treatment.	Trees or Plants.		Treatment.
	Number.	Kind.	

Dated this day of, 19..

Signature of Inspector:
Usual Address:

[Form No. 5.

NOTICE OF SUSPENSION OF CERTIFICATE OF REGISTRATION, AND PROHIBITING SALES FROM A NURSERY.

To

PLEASE take notice that in pursuance of the regulations under the Orchard and Garden Diseases Act, 1928, and in consequence of the disease known as having appeared in your nursery situated at or near, the certificate of unconditional registration in respect of the said nursery is hereby suspended, and you are hereby prohibited until further notice from selling or distributing, or

allowing to be sold or distributed, from the said nursery any trees or plants of the undermentioned kinds unless such trees or plants shall have been treated in the manner shown below in the presence of an Inspector and a certificate of treatment has been obtained from him.

Kind of Tree or Plant.	Treatment.

Dated this day of, 19..

.....
Director of the Horticulture Division.

[Form No. 6.]

APPLICATION FOR SPECIAL INSPECTION OF NURSERY.

To the Director of the Horticulture Division,
Department of Agriculture,
Private Bag, Wellington, C. 1.

THE certificate of unconditional registration in respect of my nursery at or near having been suspended by you, I now certify that to the best of my knowledge the disease known as has been effectively treated, and I accordingly apply for removal of the suspension.

The prescribed fee of 10s. is tendered herewith.

Dated this day of, 19..

Signature :

Address :

[Form No. 7.]

APPLICATION FOR SPECIAL INSPECTION OF A NURSERY IN RESPECT OF WHICH A CERTIFICATE OF CONDITIONAL REGISTRATION HAS BEEN ISSUED.

To the Director of the Horticulture Division,
Department of Agriculture,
Private Bag, Wellington, C. 1.

I AM the occupier of a nursery situated at or near in respect of which a certificate of conditional registration has been issued. I now certify that to the best of my knowledge the disease known as has been effectively treated and that my nursery is now free from any disease whatsoever, and I accordingly apply for a certificate of unconditional registration in respect thereof.

The prescribed fee of 10s. is tendered herewith.

Dated this day of, 19..

Signature :

Address :

[Form No. 8.]

APPLICATION FOR CERTIFICATE OF TREATMENT OF NURSERY STOCK.

To the Inspector under the Orchard and Garden Diseases Act, 1928,
Department of Agriculture, at

I REQUIRE a certificate that certain trees and plants which I propose to treat for disease at my nursery at or near, on, the day of, 19.., or as soon thereafter as you can attend, have been so treated in your presence.

The following are the particulars: No. Kind:
Treatment:

I undertake to pay the prescribed fee forthwith on completion of the treatment.

Dated this day of, 19..

Signature :

Address :

[Form No. 9.]

APPLICATION FOR TRANSFER OF CERTIFICATE OF REGISTRATION OF A NURSERY.

I,, of, the occupier of the registered nursery comprising acres, being Section No., Block No., in the Survey District [*or similar description*], at or near, hereby apply for the transfer of my certificate of registration to, of, the future occupier of this nursery.

My certificate is returned herewith.

Dated this day of, 19..

Signature of Transferor :

I desire the transfer of the certificate of registration of the above nursery to myself.

Dated this day of, 19..

Signature of Transferee :

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 20th day of April, 1939.

These regulations are administered by the Department of Agriculture.

(Notice No. Ag. 3652.)