

Serial Number **1954/198**



THE NURSERY REGISTRATION REGULATIONS 1954

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 9th day of November
1954

Present:

THE HON. C. M. BOWDEN PRESIDING 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

1. (1) These regulations may be cited as the Nursery Registration Regulations 1954.

(2) These regulations shall come into force on the 1st day of December 1954.

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

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

“Inspector” means an Inspector appointed under the Act:

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

“Occupier”, in the case of a 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, timber or shelter tree or plant, hedge plant, ornamental tree or shrub, or rose plant:
- “ Registrar ” means an officer of the Department of Agriculture for the time being stationed at the registration office for any district and appointed by the Director-General of Agriculture to be Registrar of Nurseries for that district:
- “ Registration district ” or “ district ” means a nursery registration district constituted under these regulations:
- “ Registration office ” means the registration office appointed under these regulations for any district:
- “ 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.

Sale of Prescribed Trees and Plants

3. (1) No person, whether by himself, his servant, or agent, shall sell or offer for sale any prescribed tree or plant raised or grown in New Zealand, other than an indigenous tree or plant that has not been cultivated, unless the prescribed tree or plant has been raised or grown in a nursery which is for the time being registered pursuant to the provisions of these regulations.

(2) No person, whether by himself, his servant, or agent, shall sell or offer for sale 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 the tree or plant is affected with disease, unless the tree or plant has been treated in such manner as to destroy the disease.

(3) The onus of proving that any prescribed tree or plant sold has been grown or raised in a registered nursery shall rest upon the seller.

Registration Districts

4. (1) For the purposes of the registration of nurseries, New Zealand is hereby divided into the registration districts having the names set out in the first column of the First Schedule hereto.

(2) Each registration district shall comprise the counties referred to in the second column of the said Schedule opposite the name of the registration district as set out in the first column of that Schedule.

(3) Each registration district shall include all boroughs and town districts enclosed by or contiguous to any county included in that district.

(4) The registration office for each registration district shall be the office of the Department of Agriculture in the borough or city named in the first column of the said Schedule.

Registers

5. (1) The Registrar for each registration district shall keep in the registration office for that district a register of nurseries for the district.

(2) The Registrar shall enter in the register such particulars in relation to every nursery in his district as the Director-General of Agriculture from time to time prescribes.

Application for Registration

6. (1) For the purposes of this regulation, where more than one area of land is being used for the raising of prescribed trees or plants and the areas are, in the opinion of the Director of the Horticulture Division of the Department of Agriculture, being worked from one assembly and despatch point, the areas shall be deemed to be one nursery.

(2) 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, make application in writing to the Registrar of the district within which the nursery is situated, on a form provided for the purpose by the Registrar, for registration of the nursery.

(3) Every person who is the occupier of a nursery which is for the time being registered and who desires a continuance of registration shall, not later than the first day of January in each year, make application in writing to the Registrar for the re-registration thereof.

(4) There shall be payable in respect of every application for registration or re-registration of a nursery a fee of £2.

Evidence of Registration

7. (1) A receipt in a form provided for the purpose by the Director-General of Agriculture for the payment of the registration fee for a nursery for any registration year purporting to be issued by or on behalf of any Registrar shall in the absence of proof to the contrary, be sufficient evidence of the registration of the nursery occupied by the person named in the receipt for the registration year stated therein, and it shall not be necessary to issue to the occupier a certificate of registration.

(2) Where an application for registration of a nursery is not accompanied by the registration fee, or is accompanied by part only of that fee, the nursery described in the application shall be deemed not to be registered until the fee or the balance of the fee payable, as the case may be, is duly paid.

Notification of Change of Occupier

8. (1) Where any person becomes the occupier of a registered nursery during any registration year, he shall forthwith give notice of that fact to the Registrar of the district within which that nursery is situated.

(2) Upon receipt of any notice given pursuant to this regulation and upon verification thereof to his satisfaction, the Registrar shall record in his register the name of the new occupier in the place of that of the former occupier.

Cancellation of Registration

9. A Registrar may, by entry in his register to that effect, cancel the registration of any nursery on proof to his satisfaction that the occupier has permanently ceased to use the land comprised therein as a nursery.

Restrictions on Sale

10. If an Inspector is satisfied that any disease is found in a nursery or that any trees or plants in a nursery are showing any detrimental hereditary condition, he may, by notice in writing given to the occupier, prohibit or restrict, on such conditions as he thinks fit to impose, the removal or sale from the nursery of any tree or plant which is susceptible to that disease or of a kind that is liable to show the detrimental hereditary condition.

General

11. (1) Any notice or other document may be issued or given to an applicant for registration or to a registered occupier by sending it by post in a registered letter addressed to the occupier at the address of the nursery as set out in the application for registration, and where it is so sent it 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 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) Neglects or refuses to carry out any direction given by an Inspector acting under the authority of these regulations.

Revocation

12. (1) The regulations specified in the Second Schedule hereto 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.

Reg. 4

FIRST SCHEDULE

NURSERY REGISTRATION DISTRICTS

Name of District and Registration Office	Description of District
Whangarei	The counties of Mangonui, Whangaroa, Bay of Islands, Hokianga, Whangarei, and Hobson.
Auckland	The counties of Eden, Otamatea, Rodney, Waitemata, Great Barrier Island, Manukau, and Franklin.
Hamilton	The counties of Coromandel, Thames, Hauraki Plains, Raglan, Waikato, Piako, Waipa, Matamata, Kawhia, Otorohanga, Waitomo, Ohura, Taumarunui, Kaitieke, Taupo, and that part of the Ohinemuri County lying generally to the west of the Coromandel Range.
Tauranga	The counties of Tauranga, Rotorua, Whakatanu, and Opotiki, and that part of the Ohinemuri County lying generally to the east of the Coromandel Range.
Gisborne	The counties of Matakaoa, Waiapu, Uawa, Waikohu, Cook, and Wairoa.
Hastings	The counties of Hawke's Bay, Waipawa, Waipukurau, and Patangata.
New Plymouth	The counties of Clifton, Taranaki, Inglewood, Whangamomona, Egmont, Stratford, Eltham, Waimate West, Hawera, and Patea.
Palmerston North	The counties of Waitotara, Wanganui, Waimarino, Rangitikei, Kiwitea, Pohangina, Dannevirke, Weber, Oroua, Woodville, Manawatu, Horowhenua, Kairanga, Pahiatua, and Akitio.
Wellington	The counties of Eketahuna, Mauriceville, Castlepoint, Masterton, Wairarapa South, Featherston, Hutt, and Makara.
Nelson	The counties of Collingwood, Takaka, Waima, Buller, Murchison, Inangahua, Grey, and Westland.
Blenheim	The counties of Marlborough, Awatere, and Sounds.
Christchurch	The counties of Kaikoura, Amuri, Cheviot, Waipara, Tawera, Kowai, Ashley, Oxford, Rangiora, Eyre, Selwyn, Malvern, Papanui, Waimairi, Heathcote, Mount Herbert, Akaroa, Wairewa, Halswell, Springs, Ellesmere, Ashburton, and Chatham Islands.
Timaru	The counties of Mackenzie, Geraldine, Levels, Waimate, and Waitaki.

FIRST SCHEDULE—*continued*NURSERY REGISTRATION DISTRICTS—*continued*

Name of District and Registration Office	Description of District
Alexandra	The counties of Lake, Vincent, Maniototo, and Tuapeka.
Dunedin	The counties of Waihemo, Waikouaiti, Taieri, Peninsula, Bruce, and Clutha.
Invercargill	The counties of Fiord, Wallace, Southland, and Stewart Island.

Reg. 12 (1)

SECOND SCHEDULE

REGULATIONS REVOKED

Title	Published in Statutory Regulations	
	Serial Number	Page
The Nursery Registration Regulations 1939	1939/41	192
The Nursery Registration Regulations 1939, Amendment No. 1	1940/105	357
The Nursery Registration Regulations 1939, Amendment No. 2	1942/66	142
The Nursery Registration Regulations 1939, Amendment No. 3	1950/54	186

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 consolidate and amend the Nursery Registration Regulations 1939. The principal changes are—

- (a) Registration is to be transferred to local offices of Horticultural Inspectors;
- (b) The registration fee is to be increased from £1 to £2;
- (c) The date of annual registration is to be changed to 1 January;
- (d) The issue of certificates of registration is to be discontinued;
- (e) The existing provisions for the control of disease are being dropped, and the more flexible provision is included that, if disease is found at any time, the sale of all or any particular classes of plants in the nursery is to be restricted until such time as the disease has been dealt with to the satisfaction of an Inspector.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 11 November 1954.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 5778).