



ANNO UNDECIMO

GEORGII VI REGIS.

A.D. 1947.

No. 8 of 1947.

An Act relating to the destruction and control of certain insects affecting fruit and vegetables, and other matters incidental thereto.

[Assented to 16th October, 1947.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

- Short title. 1. This Act may be cited as the "Fruit Fly Act, 1947".
- Interpretation. 2. In this Act—
- "the Committee" means the Fruit Fly Compensation Committee established by this Act :
- "fruit fly" means—
- (a) the insect known as *Ceratitus Capitata* (Wild), or the Mediterranean fruit fly (formerly called *Halterophora*) ;
- (b) the insect known as *Struheta Tryoni* (Frogg), or the Queensland fruit fly (formerly called *Tephritis Tryoni*) :
- "fruit fly regulations" means the regulations made under the Vine, Fruit, and Vegetable Protection Act, 1885-1936, by proclamations which bear the dates mentioned in the schedule to this Act, and were published in the *Gazette* on the pages mentioned in that schedule :
- "the Minister" means the Minister of Agriculture.

3. (1) The Governor shall appoint a Committee to be called the "Fruit Fly Compensation Committee".

Fruit fly
compensation
committee.

(2) The committee shall consist of—

(a) a chairman who shall be a judge or special magistrate :

(b) an officer of the Department of Agriculture :

(c) a person who in the Governor's opinion is a suitable person to represent the interests of persons who have suffered loss or damage as mentioned in section 4 of this Act.

(3) Each member of the committee shall hold office for the period and on the terms and conditions fixed by the Governor.

(4) The Governor shall make such appointments as are necessary to keep the committee fully constituted until its duties and functions under this Act have been completely performed.

(5) Two members shall form a quorum of the board for the transaction of business.

(6) The decision of two members of the committee shall be deemed to be a decision of the whole committee.

4. (1) Any person who has suffered loss by reason of any act done—

Right to
compensation.

(a) pursuant to the fruit fly regulations or in the intended exercise of any power conferred by those regulations :
or

(b) in the course of, or incidentally to, the doing of any such act as mentioned in paragraph (a) of this subsection—

shall be entitled to compensation for that loss as provided in this Act.

(2) Any person who was prohibited from growing or planting any plant by the operation of the proclamation made under the Vine, Fruit and Vegetable Protection Act, 1885-1936, and published in the *Government Gazette* on 1st April, 1947, at page 938, shall be entitled to compensation for any actual or prospective loss incurred by or accruing to him by reason of that prohibition.

(3) This section shall apply to acts done and loss or damage caused, whether before or after the passing of this Act.

Claims for
compensation.

5. (1) A person claiming compensation under this Act shall give to the committee a notice of claim, in the prescribed form and containing the prescribed particulars, within the following time, namely :—

- (a) where the loss resulted from an act done before the prescribed day—within three months after that day :
- (b) where the loss resulted from an act done after the prescribed day—within three months after the day on which that act was done :
- (c) where the loss resulted from the prohibition of growing or planting any plant—before the thirty-first day of December, nineteen hundred and forty-seven.

In this subsection “ the prescribed day ” means the day on which regulations prescribing a form of notice for use under this section are first published in the *Gazette*.

(2) The committee may, if satisfied that reasonable cause exists for so doing, extend the time in any case for giving a notice under this section, or accept a notice given after the time fixed by this section.

(3) The committee shall—

- (a) give every claimant a reasonable opportunity of placing before it any relevant facts and arguments in support of his claim :
- (b) consider all such facts and arguments :
- (c) give such decision in each case as it deems just.

(4) In inquiring into claims the committee shall not be bound by rules of evidence or procedure but may ascertain the facts by any method which it considers satisfactory.

(5) Forthwith upon reaching a decision on any claim the Committee shall give the claimant written notice of the decision.

(6) The decision of the committee as to the amount of compensation to which a person is entitled in respect of the removal, loss, destruction of or damage to any tree, plant, fruit or vegetables, or in respect of the prohibition of growing or planting any plant shall be final.

(7) If a claimant is not satisfied with the decision of the committee as to the amount of compensation to which he is entitled in respect of any matter other than those mentioned in the preceding subsection he may bring an action for damages in respect of that matter. If he brings such an action he shall, in respect of the matters on which the action is based, be entitled only to such damages as may be awarded by the court.

(8) Any such action shall be brought—

- (a) against the committee under the name of the “Fruit Fly Compensation Committee”, without specifying the names of the members of the committee :
- (b) in a court having jurisdiction in personal actions up to the amount claimed : and
- (c) within three calendar months after the claimant received notice of the decision of the Committee as provided in this section.

6. (1) The Minister shall pay to a claimant the amount of compensation to which he is entitled pursuant to a decision of the committee or the judgment of a court. Financial provision.

(2) The Treasurer out of the general revenue of the State shall make available to the Minister any sums which he requires for the purpose of paying compensation under this Act and any legal costs, which the Committee is ordered by a court to pay or agrees to pay to any claimant, in connection with any action for such compensation ; and the necessary amount of the general revenue of the State is hereby appropriated for that purpose.

(3) The expenses (other than compensation and legal costs as mentioned in subsection (2)) incurred in the administration of this Act, shall be paid out of money provided by Parliament for those purposes.

7. (1) For the purposes of this Act the committee may— Power to obtain information.

- (a) by summons under the hand of the chairman or a member, require any person to attend before the committee :
- (b) require any person to give oral or written answers to any questions relating to any matter before the committee :
- (c) by summons under the hand of the chairman or a member, require any person to produce any books, maps, plans, papers, and documents relating to any matters before the committee :
- (d) examine witnesses on oath or affirmation, which may be administered by the chairman or a member :
- (e) require any information given to the committee to be verified by a statutory declaration.

(2) If any person—

- (a) who has been duly served with a summons to attend before the committee, neglects to attend in obedience to such summons; or
- (b) wilfully insults the committee, or any member thereof; or
- (c) misbehaves himself before the committee; or
- (d) interrupts the proceedings of the committee; or
- (e) being called or examined as a witness before the committee, refuses to be sworn or to affirm, or to produce the documents mentioned in the summons served upon him, or any of them; or
- (f) being so called or examined refuses to answer any lawful question, or prevaricates in his evidence,

he shall be guilty of an offence and liable on summary conviction to a fine of not more than one hundred pounds.

(3) Every person (other than a claimant or an officer or employee of the Minister), who attends before the committee when so required by the committee, shall be allowed such expenses as would be allowed to a witness attending before a court of summary jurisdiction.

Proceedings
against
Minister.

8. Except as provided in this Act, no legal proceedings shall be taken against the Crown, or the Minister or any officer or employee of the Crown or the Minister or against the committee for the recovery of damages or compensation for loss or damage caused by any act or prohibition mentioned in section 4 of this Act.

Regulations.

9. The Governor may make any regulations which it is necessary or convenient to make for the purposes of the administration of this Act, and may by any such regulation prescribe fines recoverable summarily but not exceeding fifty pounds for breach of any such regulation.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

J. M. NAPIER, Lieutenant-Governor.

THE SCHEDULE.

Date of Proclamation.	Date and Page of <i>Gazette</i> .
31/1/47	31/1/47, page 583
11/2/47	11/2/47, page 633
20/2/47	20/2/47, pages 683 and 684
1/4/47	1/4/47, page 937