

1980

c 1 Abandoned Orchards Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Abandoned Orchards Act, RSO 1980, c 1

Repository Citation

Ontario (1980) "c 1 Abandoned Orchards Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 1, Article 3.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss1/3>

CHAPTER 1

Abandoned Orchards Act

1.—(1) In this Act,

Interpre-
tation

- (a) “abandoned orchard” means an orchard,
- (i) the fruit of which has not been produced for sale for human consumption for two consecutive growing seasons, and
 - (ii) that has been designated by a certificate of the Provincial Entomologist as a neglected orchard;
- (b) “Director” means the Director appointed under this Act;
- (c) “fruit tree disease” means any disease or injury of a fruit tree that is caused by an insect, virus, fungus, bacterium or other organism;
- (d) “fruit trees” means,
- (i) apple trees,
 - (ii) cherry trees,
 - (iii) grape vines,
 - (iv) peach trees,
 - (v) pear trees,
 - (vi) plum trees, and
 - (vii) such other fruit-producing trees, shrubs or vines as are designated in the regulations;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “orchard” means an area of land of at least one-fifth hectare on which there are at least thirteen fruit trees and on which the number of fruit trees bears a proportion to

the area of at least sixty-five fruit trees per hectare;

(g) “owner” means the person shown as the owner of the property on the last revised assessment roll of the municipality in which the property is located;

(h) “Provincial Entomologist” means the Provincial Entomologist for Orchards appointed under this Act;

(i) “regulations” means the regulations made under this Act. R.S.O. 1970, c. 1, s. 1 (1); 1978, c. 87, s. 1 (1).

Application (2) This Act applies only to orchards any part of which is closer than 275 metres to an orchard that is used for the commercial production of fruit and that does not come within the application of section 4. R.S.O. 1970, c. 1, s. 1 (2); 1978, c. 87, s. 1 (2).

Administration of Act **2.** The Lieutenant Governor in Council may appoint a Director to administer this Act, and may appoint a Provincial Entomologist for Orchards and one or more inspectors who shall carry out such duties as are assigned to them by this Act or the regulations or by the Director. R.S.O. 1970, c. 1, s. 2.

Inspection **3.—(1)** An inspector or the Provincial Entomologist may, between sunrise and sunset, for the purpose of making an inspection, enter any orchard or any premises in which he has reason to believe there is an orchard.

Idem (2) No person shall hinder or obstruct an inspector or the Provincial Entomologist in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1970, c. 1, s. 3.

Report of inspector **4.—(1)** Where an inspector reports in writing to the Director that in his opinion the majority of the fruit trees in an orchard,

(a) are infected with any fruit tree disease;

(b) are affected by such other conditions as are designated in the regulations;

(c) have not been properly pruned, sprayed or treated with chemicals; or

(d) have not otherwise been properly maintained,

so as to seriously affect at that time the ability of the fruit trees to produce fruit commercially, the Director shall cause

a copy of such report to be served on the owner of the orchard and on the Provincial Entomologist together with a notice that unless the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist within fifteen days after service of the notice, a notice requesting a hearing, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard.

(2) The copy of the report and notice mentioned in sub-^{Service}section (1) shall be served upon the owner by personal service or by mailing them addressed to him at his address shown on the last revised assessment roll, and shall be posted in a conspicuous place in the orchard. 1971, c. 50, s. 1, *part.*

5.—(1) If, within fifteen days after service of the copy ^{Issue of certificate} and notice mentioned in subsection 4 (1),

(a) the owner or a person having an interest in the orchard does not mail or deliver a request for a hearing to the Provincial Entomologist, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard; or

(b) the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist, a notice requesting a hearing, the Provincial Entomologist shall hold a hearing and if, after the hearing, he concurs in the report he may issue a certificate designating the orchard as a neglected orchard.

(2) The person requesting the hearing, the inspector making ^{Parties to hearing} the report and such other persons as the Provincial Entomologist may specify, are parties to a hearing required under subsection (1).

(3) Where the Provincial Entomologist holds a hearing ^{Inspection by Provincial Entomologist} under this section, he may inspect the orchard to which it relates, affording to the person requesting the hearing or his representative an opportunity of being present at the time of such inspection, and may take into consideration the result of the inspection in reaching his decision.

(4) A certificate designating an orchard as a neglected ^{Service of certificate} orchard shall be served upon the owner and, where a hearing was held, upon the person requesting the hearing if he is not the owner, by mailing or delivering a copy thereof to his address last known to the Provincial Entomologist, and a copy of the certificate shall be posted in a conspicuous place in the orchard. 1971, c. 50, s. 1, *part.*

Revocation
of certificate

6. The Provincial Entomologist may at any time revoke a certificate issued under section 5. 1971, c. 50, s. 1, *part.*

Where
service
deemed
made

7. Where service of a report, notice or certificate under section 4 or 5 is made by mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the report, notice or certificate until a later date. 1971, c. 50, s. 1, *part.*

Destruction
of
abandoned
orchards

8. Every person who is the owner of an abandoned orchard shall destroy,

- (a) all fruit trees in the orchard; and
- (b) such other trees, shrubs or vines, present in the orchard, as are designated in the regulations. R.S.O. 1970, c. 1, s. 7.

Penalty

9.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Idem

(2) A person who is convicted of a contravention of section 8 is liable on conviction to a further fine of \$25 for each day the contravention continues after conviction. R.S.O. 1970, c. 1, s. 8.

Regulations

10. The Lieutenant Governor in Council may make regulations,

- (a) respecting the issuance and revocation of certificates;
- (b) prescribing the duties of the Director, the Provincial Entomologist and inspectors;
- (c) designating fruit-producing trees, shrubs or vines as fruit trees for the purpose of clause 1 (1) (d);
- (d) designating conditions affecting fruit trees for the purposes of section 4;
- (e) designating trees, shrubs or vines for the purposes of section 8;
- (f) prescribing forms and providing for their use;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 1, s. 9.