1970

c 1 Abandoned Orchards Act

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CHAPTER 1

The Abandoned Orchards Act

1. — (1) In this Act,

(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-half acre 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 twenty-six fruit trees per acre;

(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.
(2) This Act applies only to orchards any part of which is closer than 300 yards to an orchard that is used for the commercial production of fruit and that does not come within the application of section 4. 1966, c. 1, s. 1.

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. 1966, c. 1, s. 2.

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.

(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. 1966, c. 1, s. 3.

4.—(1) Where, on the basis of his own inspection or on the basis of a report from an inspector, the Provincial Entomologist is of the opinion that a 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 in the orchard to produce fruit commercially, he may designate the orchard, by a certificate, as a neglected orchard.

(2) Every certificate shall be served,

(a) upon the owner by personal service or by mailing a copy of the certificate by prepaid mail addressed to the owner at his address shown on the last revised assessment roll; and
(b) after effecting service under clause a, by posting a copy of the certificate in a conspicuous place in the orchard to which the certificate applies. 1966, c. 1, s. 4.

5. The Provincial Entomologist may, at any time, revoke a certificate made under section 4. 1966, c. 1, s. 5.

6.—(1) Where the owner of or any person having an interest in an orchard considers himself aggrieved by a certificate of the
Provincial Entomologist designating the orchard as a neglected orchard under section 4, he may appeal against the certificate by delivering a notice of appeal to the Provincial Entomologist within fifteen days after service of the certificate under clause b of subsection 2 of section 4.

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall, after a hearing, confirm or revoke the certificate appealed against and shall notify the appellant of his decision by prepaid mail. 1966, c. 1, s. 6.

7. 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. 1966, c. 1, s. 7.

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

(2) A person who is convicted of a contravention of section 7 is liable on summary conviction to a further fine of $25 for each day the contravention continues after conviction. 1966, c. 1, s. 8.

9. 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 d of subsection 1 of section 1;
(d) designating conditions affecting fruit trees for the purposes of section 4;
(e) designating trees, shrubs or vines for the purposes of section 7;
(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. 1966, c. 1, s. 9.