



Australian Capital Territory

# **Plant Diseases Regulations 1938**

made under the

**Plant Diseases Act 1934**

## **Republication No 3**

Republication date: 23 July 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Plant Diseases Regulations 1938*, made under the *Plant Diseases Act 1934*, as in force on 23 July 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Plant Diseases Regulations 1938

made under the

**Plant Diseases Act 1934**

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# Plant Diseases Regulations 1938

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**Plant Diseases Act 1934**

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## Part 1 Preliminary

### 1 Name of regulations

These regulations are the *Plant Diseases Regulations 1938*.

### 3 Definitions for regulations

In these regulations:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

*case* includes covering and package and any receptacle used, or capable of being used, or intended to be used, as a container of fruit or vegetables.

*calyx stage*, in relation to the spraying of trees, means that period of the blossoming of the tree when most of the petals have fallen.

*codling moth* (*cydia pomonella*), means the codling moth in all phases of its life history, including the egg, larvae or caterpillar, pupae or chrysalis, and the adult winged insect or moth stages.

*diameter*, in relation to any fruit, means the greatest diameter of the fruit at right angles to a line joining the stem and the calyx.

*firm* includes corporation.

*fruit fly* includes the Queensland fruit fly (*Strumeta tryoni*), the Mediterranean fruit fly (*Ceratitidis capitata*) and all other fruit fly that attack cultivated and native fruits and that are included in the family Trypetidae in all phases of their life history, including the egg, larvae or maggot, pupae or chrysalis, and adult winged insect or fly stage.

*mature* means—

- (a) in relation to any apricot, peach or nectarine—that the kernel inside the stone of the fruit has ceased to be in the jelly stage; and



- (b) in relation to any tomato—that the tomato is at that stage of its growth at which the pulp immediately surrounding its seeds has changed from its original green to a dark amber colour; and
- (c) in relation to grapes—that the specific gravity of the filtered juice of the grapes is not less than 1.066 or 9° Baume at 15°C.

*tree* includes the suckers of a tree.

*waste fruit* means fruit that for any reason is not intended to be used for human or animal consumption, or that is infected with disease or pest.

## **Part 2 Sale of fruit and vegetables**

### **4 Weekly destruction of waste and infected fruit**

The owner and the occupier of any premises (including markets, shops and residences) shall, if not sooner required to do so under any other provision of these regulations, destroy, once in each week, by boiling for not less than 10 minutes or by burning, all waste and infected fruit on the premises.

Maximum penalty: 10 penalty units.

### **5 Prohibition of topping**

No person shall sell, or exhibit for sale, any fruit or vegetables unless the fruit or vegetables are so packaged and arranged that the outer layer or shown surface of the fruit or vegetables is a true indication of the fair average quality of the whole of the fruit and vegetables sold or exhibited.

Maximum penalty: 5 penalty units.

### **6 Limitation on sale of fruit in bag or sack**

- (1) No person shall sell in a bag or sack fruit the volume of which is 9L or more.
- (2) However, this regulation shall not apply to sales of fruit for manufacturing purposes.

Maximum penalty: 2 penalty units.

### **7 Contents of trays, baskets etc to be shown**

No person shall sell or export fruit in any tray, basket, cask, bucket or crate unless the container of the fruit is legibly marked with the weight or number of fruit contained in it.

Maximum penalty: 2 penalty units.

**8 Sale of apricots, peaches and nectarines**

- (1) No person shall pack for sale or sell any apricot, peach or nectarine unless the fruit is mature, in normal condition and free from any disease or pest.
- (2) No person shall pack for sale or sell in any case the volume of which is 18L or more any apricots, peaches or nectarines unless the exterior of the case is legibly marked with particulars showing—
  - (a) the variety of the fruit; and
  - (b) the name and address of the person or firm by whom the fruit was packed following the words 'packed by'.
- (3) The particulars prescribed by subregulation (2) shall be legibly marked—
  - (a) in letters not less than 20mm in height on the case; or
  - (b) in letters not less than 10mms in height on a label attached to the case.

Maximum penalty: 5 penalty units.

**9 Sale of potatoes**

- (1) No person shall sell, or offer for sale, potatoes, other than potatoes intended for stock food, except in 1 of the following grades:
  - (a) No 1 grade;
  - (b) No 2 grade;
  - (c) New potato grade;
  - (d) Chat grade;
  - (e) Seed potato grade.
- (1A) At the time of any sale, or offer for sale, of potatoes, the vendor or offerer for sale of the potatoes shall state to the customer the grade of potatoes so sold or offered for sale and, if a docket relating to the

sale is given to the customer, shall endorse on the docket the grade of potatoes sold.

- (2) No 1 grade shall consist of sound potatoes that shall have similar varietal characteristics and a mature skin; they shall be free from decay and mechanical injury not removable by the ordinary process of peeling, and shall be reasonably free from dirt and other foreign matter, second growth, sprouting, and deterioration caused during storage or by abnormal condition or growth or greening from exposure, and be free from damage caused by disease, pests, insects or sunscald and shall have a minimum weight of 90g.
- (3) No 2 grade shall consist of potatoes that comply with the standard No 1 grade except as to maturity of skin and weight. They may have either a mature or immature skin and shall be not less than 45g but less than 105g in weight.
- (4) New potato grade shall consist of potatoes that comply with standard of No 1 grade except that they shall not have a mature skin.
- (5) Chat grade shall consist of potatoes grown in the ACT that, except as regards skin and weight, comply with the standard of No 1 grade. They shall have an immature skin and shall be less than 45g in weight.
- (6) Seed potato grade shall consist of sound potatoes that shall have similar varietal characteristics and a mature skin. They shall be reasonably free from second growth, decay, mechanical injury, dirt and other foreign matter, and from damage caused by disease, sunscald or insects, and shall be not less than 35g in weight.
- (7) Potatoes in any covering that are sold, or offered for sale, shall be deemed to comply with the standard of the grade in that they are sold or offered for sale if 95% by weight of the potatoes in the covering comply with that standard.

Maximum penalty: 5 penalty units.

**10 Containers of potatoes**

No person shall, except for potatoes intended for stock food, sell potatoes or offer potatoes for sale unless they are contained in a new or a clean second-hand covering of good quality that has not previously contained organic manure or other substances that would be injurious to potatoes.

Maximum penalty: 2 penalty units.

**11 Particulars to be shown when potatoes sold**

- (1) No person shall sell potatoes, or offer potatoes for sale, in a quantity equal to, or greater than, 50kg, unless each covering in which the potatoes are contained is legibly marked on the exterior in letters not less than 50mm in height with particulars showing—
  - (a) for seed potato grade potatoes, in addition to the particulars specified in paragraph (c)—
    - (i) the variety of the potatoes; and
    - (ii) the name and address of the seller of the potatoes; and
  - (b) for potatoes that have been rebagged, in addition to the particulars specified in paragraph (c)—
    - (i) the fact that the potatoes have been rebagged; and
    - (ii) the name and address of the person or firm by whom the potatoes were rebagged; and
  - (c) in all cases—
    - (i) the grade of potatoes contained in the covering; and
    - (ii) the name and address (which address shall include a reference to the State or Territory as well as the town) of the grower of the potatoes.

- (2) However, potatoes intended for stock food may be sold, or offered for sale, if packed in coverings legibly branded 'stock food'.

Maximum penalty: 2 penalty units.

## 12 Sale of tomatoes

- (1) No person shall pack for sale or sell, in any case the volume of which is 18L or more, any tomatoes, other than tomatoes intended for manufacturing purposes unless—

- (a) the tomatoes are mature but not soft or overripe, and are sound and free from disease or pest, serious damage, decay and sunburn; and
- (b) the maximum variation in the diameter of the tomatoes does not exceed 25mm; and
- (c) the exterior of the case is legibly and indelibly marked with the name and address or registered brand of the person or firm by whom the tomatoes were packed, and, if the tomatoes have been repacked, with the words 'repacked by' after that name and address.

Maximum penalty:

- (a) for paragraph (a) or (b): 5 penalty units; and
- (b) for paragraph (c): 2 penalty units.
- (2) The particulars prescribed by subregulation (1) (c) shall be legibly marked—
- (a) in letters not less than 20mm in height on the case; or
- (b) in letters not less than 10mm in height on a label attached to the case.

Maximum penalty: 2 penalty units.

**13 Tomatoes for manufacturing purposes**

- (1) No person shall pack for sale or sell, in any case the volume of which is 18L or more, any tomatoes intended for manufacturing purposes unless—
  - (a) the tomatoes are sound and free from disease and pest; and
  - (b) the exterior of the case is, except when despatched directly to the factory from the garden where the tomatoes are grown, legibly and indelibly marked with the word 'Factory' and the name and address or registered brand of the person or firm by whom the tomatoes were packed.
- (2) The particulars prescribed by subregulation (1) (b) shall be legibly marked—
  - (a) in letters not less than 20mm in height on the case; or
  - (b) in letters not less than 10mm in height on a label attached to the case.

Maximum penalty: 5 penalty units.

**14 Sale of cherries, plums and quinces**

- (1) No person shall pack for sale or sell, in a case the volume of which is 9L or more, any cherries, plums or quinces unless the exterior of the case is marked with particulars showing—
  - (a) the variety of the fruit; and
  - (b) the name and address of the person or firm by whom the fruit was packed.
- (2) The particulars prescribed by subregulation (1) shall be legibly marked—
  - (a) in letters not less than 20mm in height on the case; or

- (b) in letters not less than 10mm in height on a label attached to the case.

Maximum penalty: 2 penalty units.

### **15 Sale of grapes**

No person shall pack for sale, or sell any grapes in their fresh state and intended for table use unless they are mature.

Maximum penalty: 5 penalty units.

### **16 Particulars to be shown when grapes sold**

- (1) No person shall pack for sale, or sell any grapes in a case unless the exterior of the case is marked with particulars showing—
  - (a) the variety of the grapes; and
  - (b) the name and address of the person or firm by whom the grapes were packed.
- (2) The particulars prescribed by subregulation (1) shall be marked—
  - (a) in letters not less than 20mm in height on the case; or
  - (b) in letters not less than 10mm in height on a label attached to the case.

Maximum penalty: 2 penalty units.

### **17 Grades of apples and pears**

- (1) No person shall sell, or offer for sale, apples or pears except in 1 of the following grades:
  - (a) Extra Fancy;
  - (b) Fancy;
  - (c) Good;
  - (d) Domestic;



(e) Factory.

Maximum penalty: 5 penalty units.

- (2) Extra Fancy grade apples shall consist of sound, clean, well-formed mature apples of 1 size and 1 variety, free from broken skins and from any disease or pest. The apples may be affected by slight blemishes provided that the blemishes do not affect more than 10% by number of the total number of apples in any package and provided that the total area covered by the blemishes on any apple does not exceed the area contained in a circle, having a diameter of 10mm. Russeting shall not be deemed to be a blemish, provided that not more than 10% of the surface of any apple is affected. The apples of this grade shall comply with the minimum size and colour requirements specified for each variety of apple of this grade in schedule 1.
- (3) Fancy grade apples shall consist of sound, clean and fairly well-formed mature apples of 1 size and 1 variety, free from broken skins and from any disease or pest. The apples may be affected by slight blemishes provided that the blemishes do not exceed 10% by number of the total number of apples in any package and provided that the total area covered by the blemishes on any apple does not exceed the area contained in a circle having a diameter of 10mm. Russeting shall not be deemed to be a blemish provided that the russeting does not affect more than 50% of the surface of any apple of the Sturmer variety or more than 30% of the surface of any apple of any other variety. The apples of this grade shall comply with the minimum size and colour requirements specified for each variety of apple of this grade in schedule 1.
- (4) Good grade apples shall consist of apples of 1 size and 1 variety, free from broken skins and not seriously affected by blemishes or by any disease or pest. The apples may be slightly blemished by Black Spot fungus, caterpillars, hail-marks or limb rubs provided that the total area covered by all blemishes on any apple does not exceed the area contained in a circle having a diameter of 10mm; provided further that, if the blemishes consist wholly of superficial hail-

marks, the total area covered by the blemishes on any apple shall not exceed the area contained in a circle having a diameter of 15mm. Russeting shall not be deemed to be a blemish with the Sturmer variety of apple and shall not be deemed to be a blemish with any other variety of apple, provided that the russeting does not affect more than 50% of the surface of any apple. The apples of this grade shall comply with the minimum size requirements specified for each variety of apple of this grade in schedule 1.

- (5) Domestic grade apples shall consist of apples of 1 size and 1 variety free from broken skins and serious damage caused by any disease or pest. The apples may be blemished, provided that the total area covered by all blemishes on any apple does not exceed the area of a circle having a diameter of 20mm; provided further that, if the blemishes consist wholly of superficial hail-marks, the total area covered by any blemishes on any apple shall not exceed the area contained in a circle having a diameter of 40mm. The apples of this grade shall comply with the minimum size requirements specified for each variety of apple of this grade in schedule 1.
- (6) Factory grade apples shall consist of apples that are free from decay, and reasonably free from any disease or pest, but that otherwise do not comply with the requirements of the foregoing grades.
- (7) Extra fancy grade pears shall consist of sound, clean, well-formed pears of 1 size and 1 variety, free from broken skins and from any disease or pest. The pears may be affected by superficial blemishes, provided that the blemishes do not affect more than 10% by number of the total number of pears in any package and provided that the total area covered by the blemishes on any pear does not exceed the area contained in a circle having a diameter of 10mm. Russeting shall not be deemed to be a blemish on pears normally russeted and shall not be deemed to be a blemish on pears of the normally clean skinned varieties, provided that the russeting does not affect more than 15% of the surface of any pear. Pears of the normally clean skinned varieties means pears of the following varieties, namely:

Bon Chretien (Duchess or Bartlett);

Beurre D'Anjou;  
Clapps Favorite;  
Doyenne du Comice;  
Howell;  
Josephine de Malines;  
Packham's Triumph;  
Packham's Late;  
Williams.

Pears of this grade shall be not less than 60mm in diameter.

- (8) Fancy grade pears shall consist of sound, clean, well-formed pears of 1 size and 1 variety, free from broken skins and not seriously affected by blemishes or by any disease or pest. The pears may be slightly blemished by pear scab fungus or from any other cause whatsoever, provided that the total area covered by all blemishes on any pear does not exceed the area contained in a circle having a diameter of 10mm. Russeting shall not be deemed to be a blemish on pears normally russeted and shall not be deemed to be a blemish on pears of the normally clean skinned varieties, provided that the russeting does not affect more than 30% of the surface of any pear. Pears of the normally clean skinned varieties means pears of the following varieties, namely:

Bon Chretien (Duchess or Bartlett);  
Beurre D'Anjou;  
Clapps Favorite;  
Doyenne du Comice;  
Howell;  
Josephine de Malines;  
Packham's Triumph;

Packham's Late.

Pears of this grade shall be not less than 50mm in diameter.

- (9) Good grade pears shall consist of pears of 1 size and 1 variety, free from broken skins and not seriously affected by blemishes or by any disease or pest. The pears may be slightly blemished by pear scab fungus or from any other cause, provided that the total area covered by all blemishes on any pear does not exceed the area contained in a circle having a diameter of 15mm; provided further that if the blemishes consist wholly of superficial hail-marks, the total area covered by the blemishes shall not exceed the area contained in a circle having a diameter of 25mm. The pears of this grade shall not be less than 50mm in diameter.
- (10) Domestic grade pears shall consist of pears of 1 size and 1 variety, free from broken skins and not seriously affected by blemishes or by any disease or pest. The pears may be slightly blemished by pear scab fungus or from any other cause, provided that the total area covered by all blemishes on any pear does not exceed the area contained in a circle having a diameter of 20mm; provided further that, if the blemishes consist wholly of superficial hail-marks, the total area covered by the blemishes shall not exceed the area contained in a circle having a diameter of 40mm.
- (11) Factory grade pears shall consist of pears that are free from decay and reasonably free from any disease or pest, but that otherwise do not comply with the requirements of the foregoing grades.

## **18 Misdescription of contents of case of apples or pears**

No person shall pack for sale any apples or pears in any case bearing any misdescription of the fruit contained in the case.

Maximum penalty: 2 penalty units.

**19 Particulars to be shown when apples or pears sold**

- (1) No person shall pack for sale or sell any apples or pears in a case the volume of that is 18L or more unless the exterior of the case is legibly marked with the particulars showing—
  - (a) the name and address of the person or firm by whom the fruit was packed; and
  - (b) the word ‘Apples’ or ‘Pears’; and
  - (c) the name of the variety of the fruit or, for apples, an abbreviation as specified in schedule 1; and
  - (d) the grade of the fruit; and
  - (e) the number or size of the fruit contained in the case:
- (2) However, subregulation (1) shall not apply to apples or pears forwarded to a factory for manufacturing purposes in a case legibly and indelibly marked ‘for factory use only’.
- (3) The particulars prescribed by subregulation (1) shall be legibly and indelibly marked—
  - (a) in letters not less than 20mm in height on the case; or
  - (b) in letters not less than 10mm in height on a label attached to the case.

Maximum penalty: 2 penalty units.

## Part 3 Fruit cases

### 20 Dimensions of fruit cases

- (1) A person shall not sell within the ACT, or export from the ACT, fruit packed in a case unless the case is of a description specified in schedule 2, column 2 and has the internal dimensions specified in that schedule, column 3 opposite to that description.

- (2) In this regulation:

*case* does not include a bag or sack.

Maximum penalty: 2 penalty units.

### 23 Tampering with marks on fruit cases

No person shall alter or tamper with any case bearing the maker's name, address and guarantee or deface or alter the maker's name, address or guarantee that has been placed on a case.

Maximum penalty: 10 penalty units.

### 24 False marks on fruit cases

- (1) No person shall place or permit to be placed on a case a guarantee that does not correctly state the size of the case.
- (2) No person shall place, sell, or export from the ACT, fruit in any case the guarantee that incorrectly states the size of the case.

Maximum penalty: 10 penalty units.

### 25 Exception in case of trays etc

The provisions of this part shall not apply to—

- (a) the sale or export of fruit in a tray, basket, cask or bucket or a crate in which there are trays for the fruit; or
- (b) the export of any fruit that is being exported from Australia.

## **Part 4**                      **Neglected trees**

### **33**      **Neglected trees**

If any trees have been neglected and uncultivated for a period of 2 years and are, in the opinion of the inspector, because of that neglect, likely to spread pest or disease, the inspector may, by written notice, require the owner or occupier of the land on which the trees are growing to grub, fell, stack and burn them within the time specified in the notice.

### **34**      **Owner liable for cost of destruction of neglected trees**

If the owner or occupier of the land fails to comply with the requirements of a notice given under regulation 33, the inspector may, at the cost of the owner or occupier, cause the work specified in the notice to be performed.

### **35**      **Destruction of fruit of neglected trees**

The owner or occupier of any land where neglected or uncultivated trees are growing shall, if the inspector requires him or her so to do, destroy by burning, or by immersion for 10 minutes in boiling water, the fruit of those trees.

Maximum penalty: 10 penalty units.

## Part 5 Control of codling moth

### 36 Prevention of codling moth

- (1) Every owner and every occupier of land or premises where any apple, pear or quince tree is growing shall—
  - (a) using a preparation that is an approved insecticide in relation to codling moth, thoroughly spray each tree on the following occasions:
    - (i) a 1st spraying shall begin on a date when the tree is at the calyx stage and shall be completed not later than 30 October next following that date;
    - (ii) a 2nd spraying shall begin on a date 3 weeks after the date of completion of the 1st spraying and shall be completed not later than 20 November next following that date;
    - (iii) a 3rd spraying shall begin on a date 3 weeks after the date of completion of the 2nd spraying and shall be completed not later than 11 December next following that date;
    - (iv) a 4th spraying shall be completed on a date not later than 8 January next following the date of completion of the 3rd spraying;
    - (v) subsequent sprayings shall be made at intervals of 3 weeks afterwards until all the fruit of the tree is harvested;
  - (b) keep the tree free from loose bark and broken limbs and keep all crevices or cavities in the tree free from the larvae and pupae of codling moth; and
  - (c) destroy by burning all larvae and pupae of codling moth and litter found by, or arising from, the removal of loose bark and



- broken limbs of the tree and the cleaning of its crevices and cavities; and
- (d) collect all fallen fruit of the tree at intervals not exceeding 7 days; and
  - (e) remove from the tree, at intervals not exceeding 7 days, all fruit infected with codling moth.
- (2) Every owner and every occupier of land or premises (including markets, shops and residences) on which is any fruit of the species mentioned in subregulation (1) that is waste or that is infected with codling moth, shall forthwith treat all the fruit by—
- (a) immersing it in boiling water for at least 10 minutes; or
  - (b) burning it so as to destroy all eggs and larvae of codling moth; or
  - (c) placing it in a pit provided with a cover having an opening fitted with a lid or door for the purpose of admitting fruit and having a glass window, with a surface area of not less than 1.25m<sup>2</sup>, situated not less than 60cm from the lid or door and so maintain the cover, lid or door, and window to prevent the escape from the pit of adult codling moths.

Maximum penalty: 5 penalty units.

## Part 6 Control of fruit fly

### 37 Treatment to eradicate fruit fly

- (1) If an inspector, by signed notice, requires the owner or occupier of land to take measures for the control of fruit fly, the owner or occupier, shall—
  - (a) in relation to each tree or vine growing on the land, being a tree included in a class of trees, or a vine included in a class of vines, specified in the notice—
    - (i) at intervals of not more than 7 days during the appropriate period apply to the foliage of the tree or vine a preparation that is an approved insecticide in relation to fruit fly or a spray, being a spray approved by an inspector that is as effectual for the control of fruit fly as any preparation that is an approved insecticide in relation to fruit fly; and
    - (ii) at intervals of not more than 3 days during the appropriate period remove from the tree or vine the fruit that is infected with fruit fly; and
    - (iii) at intervals of not more than 3 days during the appropriate period collect the fruit that has fallen from the tree or vine and treat, in a way specified in subregulation (3), any fruit so collected that is waste fruit; and
  - (b) in relation to each nectarine, peach or quince tree (if any) growing on the land—remove all nectarines, peaches or quinces, from the tree not later than 31 March next following the receipt of the notice; and
  - (c) in relation to each loquat tree (if any) growing on the land—remove all loquats from the tree not later than 31 October next following the receipt of the notice.

(2) In subregulation (1):

*the appropriate period*, in relation to a tree included in a class of trees, or a vine included in a class of vines, specified in a notice under that subregulation, means the period specified in that notice as the period during which measures for the control of fruit fly are to be taken in relation to that class of trees or vines.

(3) If fruit infected with fruit fly is on any land or premises, the owner or occupier of the land or premises shall forthwith treat the fruit by—

- (a) immersing it in boiling water for not less than 10 minutes; or
- (b) burning it so as to destroy the eggs and larvae of fruit fly that are in or on the fruit; or
- (c) placing it in a covered pit—
  - (i) the cover of which has an opening fitted with a lid or door, for the purpose of placing fruit in the pit, and a glass window, not less than 1.25m<sup>2</sup> in area, situated not less than 60cm from the lid or door; and
  - (ii) that is kept so covered that adult fruit flies in the pit are prevented from escaping from the pit.

(4) If an inspector, by signed notice, requires the owner or occupier of a market or shop to take, during a period specified in the notice, measures for the control of fruit fly and there is, at any time during that period, waste fruit on the market or shop, the owner or occupier shall forthwith treat that waste fruit in a way specified in subregulation (3).

(5) A person shall not, during the period beginning on 1 October in any year and ending on 30 April in the succeeding year, import any fruit into the ACT from any district declared under the law of any State, to be a fly-infected district unless—

- (a) he or she produces to an inspector a certificate signed by the officer authorised under the law of the State from which it is

sought to import the fruit, that he or she has inspected the fruit and that it is free from infection of fruit fly; and

- (b) the covering or package that contains the fruit is legibly marked with the name and address of the person or firm by whom or by that the fruit was packed.

Maximum penalty: 10 penalty units.

## Part 6A Control of aphididae and fungi

### 37A Treatment to eradicate aphididae and fungi

Every owner and every occupier of land or premises where any peach, nectarine, almond, cherry or apricot tree is growing shall—

- (a) when the trees are completely dormant, thoroughly spray the tree with a mixture of tar distillate and water mixed in a proportion of 5L tar distillate to 160L of water; and
- (b) when the buds on the tree are beginning to swell, but not less than 4 weeks after the tree has been sprayed with the mixture of tar distillate and water, thoroughly spray the tree with bordeaux mixture.

Maximum penalty: 5 penalty units.

## **Part 7                      Miscellaneous**

### **39      Discharge of liability of owner and occupier**

If, by or under these regulations, both the owner and the occupier of any land, premises, orchard or nursery, are required to do any act or thing, or to comply with any requirement, compliance by either of them with the provision or requirement shall be deemed to be compliance by both.

## Schedule 1

(see reg 17 and reg 19)

**Table 1**

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
1	Aitkens	AS	57		
2	Adams Pearmain	A.PM.	57	30	10
3	Alexander	ALX	57	30	10
4	Alfriston	ALF	57		
5	Allsops Early	ALLSOP	57		
6	Aromatic	ARO	57	50	20
7	Australian Beauty	A.B.	57	50	20
8	Ben Davis	BEN. D.	57	30	15
9	Buncombe	BUN.	57	50	20
10	Charles Ross	C.R.	57	30	10
11	Cleopatra	CLEO	57		
12	Coleman	CMN	57	50	20
13	Commerce	COM	57	50	20

Schedule 1

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
14	Coxs Orange Pippin	C.O.P.	51	30	5
15	Crofton	CROF.	51	50	20
16	Crow Egg	C.E.	57	30	10
17	Delicious	DEL	57	50	20
18	Democrat	DEM	57	70	35
19	Dougherty	DHTY	54	40	20
20	Duke of Clarence	D.C.	57	70	35
21	Dunns	DUNNS	57		
22	Edna May	E.M.	57	50	20
23	Elsie Grant	E.G.	54	40	20
24	French Crab	F.C.	51	70 green colou r	
25	Foster	FO.	57	50	20
26	Geeveston Fanny	G.F.	54	50	10
27	Golden Delicious	G.D.	57		
28	Granny Smith	G.S.	57		



Schedule 1

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
29	Gravenstein	GRAV.	57		
30	Grimes Golden	G.G.	57		
31	Hoover	HOOV.	57	50	30
32	Huon Belle	H.B.	57	30	15
33	Irish Peach	I.P.	57	20	10
34	Jonathan	JON	54	50	20
35	Jubilee	JUB.	57	50	20
36	King Cole	K. COLE	57	50	20
37	King David	K.D.	54	70	35
38	King Pippin	K.P.	54	30	10
39	Kirks Carrington	K.CAR.	54	50	20
40	London Pippin	L.P.	57		
41	Lord Nelson	L.N.	57		
42	Lord Suffield	L.SF.	57		
43	Lord Wolseley	L.W.	54		
44	McIntosh Red	Mc.R.	57	70	35

Schedule 1

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
45	Mammoth	MAM.	57		
46	Mobbs Codlin	M.C.	64		
47	Newtown Pippin	N.T.P.	57		
48	Nickajack	NJ.	57	30	10
49	Northern Spy	N.S.	57	30	10
50	Perfection	PERFN	57	50	20
51	Prince Alfred	P.A.	64	30	10
52	Pomme de Neige	P.D.N.	54	30	10
53	Ranelagh	RAN.	57	30	10
54	Reinette du Canada	R.D.C.	57		
55	Red Carrington	R.CAR.	54	40	10
56	Ribston Pippin	R.P.	57		
57	Rokewood	ROKE.	54	40	20
58	Rome Beauty	R.B.	57	30	10
59	Rymer	RYM.	57	25	10

Schedule 1

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
60	Senator	SEN.	57	30	10
61	Strawberry Pippin	STRAW	57	30	10
62	Spitzenburg	SPTZ.	57	40	15
63	Scarlet	S.PM.	54	50	20
64	Schroeder	SCH.	57		
65	Statesman	STN	57	30	10
66	Stayman Winesap	STAY.W.	57	30	10
67	Stone Pippin	S.P.	54		
68	Sturmer	ST.P.	54		
69	Stewarts		64		
70	Tasmans Pride	T.P.	54	50	20
71	Twenty Ounce	T.O.	57		
72	Wellington	WELL.	57		
73	White Winter Pearmain	W. W.P.	57		
74	Willie Sharp	W.S.	57		

**Schedule 1**

column 1 item	column 2 Variety of apple	column 3 abbreviated description of variety (if any)	column 4 minimum diameter in mm, of each apple	column 5 minimum percentage of colour characteristic of the variety required for each apple	
				Extra Fancy Grade	Fancy Grade
75	Winter Majetin	W.M.	57	20	10
76	Worcester Pearmain	W.P.M.	54	50	20
77	Yates	YATES	51	50	20
78	Any other variety		57		

## Schedule 2

(see reg 20)

<b>column 1 item</b>	<b>column 2 description of case</b>	<b>column 3 internal dimensions in mm</b>
1	Dump package	450 x 220 x 360
2	Local market package	430 x 280 x 305
3	Australian tray pack	500 x 300 x 275
4	Standard package	450 x 290 x 270
5	Cell Pack W	465 x 305 x 305
6	Cell Pack X	525 x 280 x 300
7	Cell Pack Y	480 x 320 x 275
8	Cell Pack Z	525 x 315 x 255
9	Cell Pack 80	410 x 320 x 335
10	Half dump package	450 x 215 x 180
11	Standard tray	450 x 290 x 100
12	Australian pear carton	430 x 290 x 235
13	Half standard package	450 x 290 x 135
14	Banana case	450 x 305 x 260
15	Banana carton	465 x 325 x 220
16	Cherry package	350 x 260 x 100
17	Citrus package	415 x 270 x 260

## Schedule 2

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<b>column 1 item</b>	<b>column 2 description of case</b>	<b>column 3 internal dimensions in mm</b>
18	Half citrus package	370 x 230 x 175
19	Tropical case	630 x 305 x 305
20	Pineapple package	530 x 350 x 240
21	Grape package	450 x 360 x 150
22	Standard pear package	450 x 290 x 215
23	Half peach package	450 x 270 x 145
24	Volume fill tomato carton	450 x 280 x 165
25	Berry punnet—	
	top	100 x 100
	bottom	85 x 85
	depth	45

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

## Endnotes

3 Legislation history

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### 3 Legislation history

These regulations were originally called the *Plant Diseases Regulations* and were originally made under a Commonwealth ordinance—the *Plant Diseases Ordinance 1934* No 21 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT, and the regulations made under them, into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. The *Plant Diseases Ordinance 1934* and the *Plant Diseases Regulations* were converted into ACT enactments on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name of the ordinance was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

These regulations were renamed as the *Plant Diseases Regulations 1938* under the *Legislation Act 2001*.

Before 12 September 2001, regulations commenced on their notification day unless otherwise stated (see *Interpretation Ordinance 1914* s 5, *Interpretation Ordinance 1937* s 16, *Subordinate Laws Act 1989* s 6).

#### Legislation before becoming Territory enactment

##### **Plant Diseases Regulations 1938**

notified 17 February 1938

commenced 17 February 1938

as amended by

##### **Amendment of Plant Diseases Regulations, made 14 April 1938**

notified 21 April 1938

commenced 21 April 1938

##### **Amendment of Plant Diseases Regulations, made 16 December 1938**

notified 22 December 1938

commenced 22 December 1938

##### **Amendments of Plant Diseases Regulations 1955 No 5**

notified 12 May 1955

commenced 12 May 1955

##### **Amendments of Plant Diseases Regulation 1957 No 4**

notified 13 June 1957

commenced 13 June 1957



**Amendments of Plant Diseases Regulations 1959 No 20**

notified 31 December 1959  
 commenced 31 December 1959

**Amendments of Plant Diseases Regulations 1978 No 6**

notified 4 May 1978  
 commenced 4 May 1978

**Regulations to revise regulations in force under ordinances of the ACT 1979 No 26**

notified 29 November 1979  
 commenced 29 November 1979

**Legislation after becoming Territory enactment****Regulations Revision (Penalties) Regulations 1996 No 8**

notified 6 June 1996  
 commenced 6 June 1996

**Legislation (Consequential Amendments) Act 2001 No 44 pt 284**

notified 26 July 2001 (Gaz 2001 No 30)  
 s 1, s 2 commenced 26 July 2001 (IA s 10B)  
 pt 284 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**4 Amendment history****Name of regulations**

reg 1 hdg am R3 LA  
 reg 1 am R3 LA

**Parts**

reg 2 am regs notfd 22 December 1938  
 sub 1957 No 14  
 om 1978 No 6

**Definitions for regulations**

reg 3 am 1955 No 5; 1957 No 4; 1978 No 6; Act 2001 No 44  
 amdt 1.3182, amdt 1.3183

**Weekly destruction of waste and infected fruit**

reg 4 am 1996 No 8

**Prohibition of topping**

reg 5 am 1996 No 8

**Limitation on sale of fruit in bag or sack**

reg 6 am 1978 No 6; 1996 No 8; R2 LRA

## Endnotes

### 4 Amendment history

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**Contents of trays, baskets etc to be shown**

reg 7 am 1996 No 8

**Sale of apricots, peaches and nectarines**

reg 8 am 1978 No 6; 1996 No 8

**Sale of potatoes**

reg 9 am regs notfd 22 December 1938; 1978 No 6; 1979 No 26;  
1996 No 8

**Containers of potatoes**

reg 10 am 1996 No 8

**Particulars to be shown when potatoes sold**

reg 11 am 1978 No 6; 1996 No 8; R2 LRA

**Sale of tomatoes**

reg 12 am 1978 No 6; 1996 No 8

**Tomatoes for manufacturing purposes**

reg 13 am 1978 No 6; 1996 No 8

**Sale of cherries, plums and quinces**

reg 14 am 1978 No 6; 1996 No 8

**Sale of grapes**

reg 15 am 1996 No 8

**Particulars to be shown when grapes sold**

reg 16 am 1978 No 6; 1996 No 8

**Grades of apples and pears**

reg 17 am 1978 No 6; 1979 No 26; 1996 No 8

**Misdescription of contents of case of apples or pears**

reg 18 am 1996 No 8

**Particulars to be shown when apples or pears sold**

reg 19 am 1978 No 6; 1996 No 8; R2 LRA; regs renum R3 LA

**Dimensions of fruit cases**

reg 20 sub 1976 No 6  
am 1996 No 8

reg 21 om regs notfd 22 December 1938

reg 22 om regs notfd 22 December 1938

**Tampering with marks on fruit cases**

reg 23 am 1996 No 8

**False marks on fruit cases**

reg 24 am 1996 No 8

**Neglected trees**

pt 4 hdg sub 1957 No 4

**Orchards and nurseries to be registered**

reg 26 om 1957 No 4

**Method of registration**

reg 27 am regs notfd 21 April and 22 December 1938; 1955 No 5  
om 1957 No 4

**Times for registration**

reg 28 om 1957 No 4

**Certificate of registration**

reg 29 am regs notfd 21 April and 22 December 1938; 1955 No 5  
om 1957 No 4

reg 30 om regs notfd 22 December 1938

reg 31 om regs notfd 22 December 1938

**Disposal of orchard or nursery to be notified**

reg 32 am regs notfd 22 December 1938; 1955 No 5  
om 1957 No 4

**Further particulars of orchards**

reg 32A ins regs notfd 22 December 1938  
am 1955 No 5  
om 1957 No 4

**Neglected trees**

reg 33 am 1959 No 20

**Owner liable for cost of destruction of neglected trees**

reg 34 am 1959 No 20

**Destruction of fruit of neglected trees**

reg 35 am 1996 No 8

**Prevention of codling moth**

reg 36 am 1957 No 4; 1978 No 6; 1979 No 26; 1981 No 7; 1996 No 8;  
pars renum R3 LA

**Treatment to eradicate fruit fly**

reg 37 am regs notfd 22 December 1938; 1957 No 4; 1978 No 6; 1979  
No 26; 1981 No 7; 1996 No 8; regs renum R3 LA

**Control of aphididae and fungi**

pt 6A hdg ins regs notfd 22 December 1938

**Treatment to eradicate aphididae and fungi**

reg 37A ins regs notfd 22 December 1938  
am 1978 No 6; 1996 No 8

## Endnotes

### 5 Earlier republications

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#### **Offences**

reg 38 am 1978 No 6  
om 1996 No 8

#### **Repeal**

reg 40 om 1981 No 7

#### **Schedule 1**

sch 1 sub 1978 No 6

#### **Schedule 2**

sch 2 sub 1978 No 6

#### **Schedule 3**

sch 3 om 1957 No 4

#### **Schedule 4**

sch 4 am regs notfd 21 April and 22 December 1938; 1955 No 5;  
1957 No 4  
om 1959 No 20

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	SL 1981 No 7	31 October 1991
2	SL 1996 No 8	31 July 1999

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