

1998 BILL 230

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 230

DUTCH ELM DISEASE ACT

MR. WHITE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 230
Mr. White

BILL 230

1998

DUTCH ELM DISEASE ACT

(Assented to _____, 1998)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) "Dutch Elm Disease" means the disease caused by the fungus *Ceratocystis Ulmi*;
- (b) "elm tree" means a tree of the *Ulmus* species;
- (c) "inspector" means a person appointed as an inspector under this Act;
- (d) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

Programs and
control
measures

2(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing programs or measures for the control of Dutch Elm Disease;
- (b) prescribing forms for use under this Act and the regulations;
- (c) respecting any matter necessary for carrying out the intent and purposes of this Act and the regulations.

(2) A program or measure under subsection (1) may be prescribed

for the whole province or any part of the province.

(3) A program or measure prescribed under subsection (1) may provide for

- (a) the application of disinfectants or other preventive or curative treatments to trees infected or in danger of becoming infected by Dutch Elm Disease;
- (b) the removal and disposal, and the manner of doing so, of any tree or wood infected or in danger of becoming infected by Dutch Elm Disease;
- (c) the planting of such varieties of trees which in the opinion of the Minister are not susceptible to Dutch Elm Disease, to replace elm trees removed or likely to require removal because of Dutch Elm Disease or for any other reason.

Expense of implementation

3 A person required to implement a program or measure prescribed under section 2(3)(a) or (b) may be required to do so at his own expense.

Keeping or selling infected tree prohibited

4(1) In this section "kiln dried" means dried mechanically to a moisture content of 18% or less.

(2) No person shall

- (a) have or keep, for the purposes of sale or otherwise,
- (b) exchange or sell or offer for exchange or sale, or
- (c) transport, except in the course of the removal and disposal thereof in a manner prescribed in a regulation under section 2 or specified in an order under section 7,

any tree infected with Dutch Elm Disease, or any wood of an elm tree on which any bark remains and that has not been kiln dried or otherwise treated in a manner satisfactory to the Minister.

Exemptions

5 The Lieutenant Governor in Council may exempt certain persons or categories of persons specified in the regulations from

- (a) any program or measure prescribed under section 2,

- (b) any provision of section 4, or
- (c) any other provision of this Act or the regulations.

Appointment
of inspectors

6(1) The Minister may appoint any persons he considers proper as inspectors who shall enforce this Act and the regulations.

(2) An inspector may, at all reasonable times and for the purpose of enforcing any provisions of this Act or the regulations, enter any place or premises, not being a dwelling place, or any vehicle where the inspector has reason to believe that an elm tree or any wood from an elm tree is located, stored or being transported.

(3) Where in the course of an inspection under subsection (2) an inspector finds an elm tree or the wood of an elm tree which the inspector believes is infected or is in danger of becoming infected with Dutch Elm Disease, the inspector shall forthwith prepare and submit a written report to the Minister.

(4) No action for damages lies against the Minister, or any person appointed by the Minister under this Act, in respect of any act done in good faith under this Act or the regulations.

Order of
Minister

7 Notwithstanding any other provision of this Act or the regulations but subject to section 5, where the Minister believes that a tree or the wood of a tree upon the lands or premises of any person is infected or is in danger of becoming infected by Dutch Elm Disease, the Minister may, by order, require the person

- (a) to apply to the tree or wood such disinfectant or other preventive or curative treatments as may be specified in the order, or
- (b) to remove and dispose of the tree or wood in such manner as may be specified in the order where the Minister believes that treatments under clause (a) have been or would be unsuccessful,

at the expense of the person and within a time stated in the order.

Court of
Queen's
Bench orders

8(1) An inspector or the Minister may apply by originating notice to the Court of Queen's Bench for an order if any person

- (a) fails to implement a program or measure pursuant to a

regulation made under section 2,

- (b) has, keeps or transports any tree or wood contrary to section 4,
- (c) fails to comply with an order under section 7, or
- (d) refuses to allow or interferes with an entry or inspection by an inspector.

(2) The Court of Queen's Bench may make an order

- (a) requiring a person to comply with a program, measure or order made under this Act or the regulations,
- (b) restraining a person from preventing or interfering with an inspector's entry or inspection,
- (c) authorizing an inspector to enter lands, premises, dwelling houses, vehicles or other places to seize, remove and dispose of any tree or wood, or
- (d) giving effect to the requirements of this Act or the regulations.

(3) A copy of the originating notice and each affidavit in support must be served at least 3 days before the day named in the originating notice for hearing the application.

(4) The Minister may recover by action any expenses incurred by the Government in carrying out an order of the Court.

(5) The Court may require as part of its order that a peace officer assist an inspector in enforcing an order of the Court.

Agreement for financial assistance

9 Where the Minister deems it necessary, he may require a municipality, at its expense, to implement any program or measure prescribed under section 2.

Agreements for mutual programs

10 The Minister may, with the approval of the Lieutenant Governor in Council and on such terms and conditions as the Lieutenant Governor in Council may approve, enter into an agreement with

- (a) the Government of Canada or an agency thereof,

- (b) the government of another province or a territory or an agency thereof,
- (c) the government of another country or a state thereof, or any agency of that government,
- (d) a municipality, or
- (e) a person

for developing and implementing mutual programs or measures for the control of Dutch Elm Disease and for sharing the expense of developing and implementing the programs or measures.

Penalty

11 Any person who contravenes this Act, the regulations or order of the Minister is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than 12 months or to both.