

PLANT PROTECTION ACT
Act 10 of 2006 – 1 November 2006

Amended 27/13 (P 9/16 – cio 1/7/16); 4/17 (cio 20/5/17); 14/19 (cio 25/7/19); 1/2020 (cio 23/3/2020); 7/2020 (cio 7/8/2020);

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PLANT PROTECTION ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Plant Protection Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“Agricultural Services” means the Agricultural Services of the Ministry;

[Inserted 7/2020 (cio 7/8/2020).]

“beneficial organisms” means organisms, including fungi, bacteria, viruses, virus-like organisms or invertebrate or vertebrate animals, used specifically for—

- (a) control of pest;
- (b) pollination;
- (c) the commercial production of agricultural products; or
- (d) other purposes beneficial to agricultural production;

“Committee” means the Plant Biosecurity Technical Committee set up under section 8A;

[Inserted 7/2020 (cio 7/8/2020).]

“consignment” means a quantity of plants, plant products or regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate;

“container” means a box, bag or other receptacle in which plants, plant products or any object or material capable of harbouring pests have been or are being transported;

“conveyance” means any ship, vessel, aircraft, train, vehicle, cart, container, animal or other animate or inanimate object that can convey plants, plant products, pests, soil or regulated articles from one place to another;

“detention” means keeping of a consignment in custody or confinement for phytosanitary reasons;

“emergency action” means any urgent phytosanitary action undertaken in a new or unexpected phytosanitary situation without full technical justification;

“GMO” or “genetically modified organism” has the same meaning as in the Genetically Modified Organisms Act;

“guidelines” means guidelines issued by the NPPO –

(a) setting out the requirements, the applicable law and the procedure to be adopted for an application under sections 19 to 23;

[Amended 14/19 (cio 25/7/19).]

(b) available for consultation at the NPPO; and

(c) posted on the website of the NPPO;

[Inserted 27/13 (cio 1/7/16).]

(d) listing all fees leviable under this Act; and

[Added 14/19 (cio 25/7/19).]

(e) listing all plants, plant products and other regulated articles under this Act;

[Added 14/19 (cio 25/7/19).]

“importer” means any person who, whether as owner, consignor, consignee, agent, broker or otherwise, is in possession of, or is in any way entitled to the custody of any plant, plant product or other regulated article landed or likely to be landed in Mauritius from another country;

“infestation” means a condition whereby the land, plant, soil or other matter or thing in respect of which the term is used supports a pest physically, nutritionally or in any other way or a condition whereby the presence of the pest in or on the land, plant, soil or other matter or thing in question exposes any plant either directly or indirectly to pest infestation;

“Minister” means the Minister to whom responsibility for the

subject of agriculture is assigned;

“Ministry” means the Ministry responsible for the subject of agriculture;

[Inserted 7/2020 (cio 7/8/2020).]

“NPPO” means the National Plant Protection Office referred to in section 4;

“officer” means an officer of the NPPO designated as such under section 4 (2);

“owner”, in relation to a thing, includes any person having for the time being the possession, custody or control thereof;

“packaging” means any material in which any plant, plant product or regulated article is covered, enclosed, contained or packed;

“pest” means any living stage of any insect, mite, nematode, slug, snail, protozoa, bacterium, fungus, plant or any reproductive part thereof, virus, phytoplasma, or any infectious agent capable of causing damage to any plant, planting material or plant product;

“pest risk analysis” means the process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

“phytosanitary certificate” means a certificate issued under section 22;

“phytosanitary measure” means any measure taken for the prevention of the introduction or spread of quarantine pests, or limiting the adverse economic impact of regulated non-quarantine pests;

“plant” means any living plant and parts thereof, including seeds and germplasm;

“plant import permit” means a permit issued under section 19;

“plant product” means any product derived from plants, either in their natural, manufactured or processed form;

“point of entry” means an airport, seaport or land border point;

“premises” means land or any building or other structure situated on land;

“quarantine” means the confinement of plants, plant products or other regulated articles for observation and research or for further inspection, testing and treatment;

“quarantine area” means an area declared as such under section 10;

“quarantine pest” means a pest specified in Part I of the Schedule;

“re-export phytosanitary certificate” means the certificate issued under section 23;

“regulated article” means any storage place, packaging, conveyance, container, soil and other organism, object or material capable of harbouring or spreading pests, requiring phytosanitary measures and includes a pest, a beneficial organism or GMO;

“regulated non-quarantine pest” means a pest specified in Part II of the Schedule;

“regulated pest” means a quarantine pest or a regulated non-quarantine pest;

“soil” includes earth, water, peat, manure, compost, sand, clay and any other substance capable of supporting plant life, or transmitting any pest, whether or not used or intended to be used as a growing medium, or in any process of manufacture, or as ballast or for any other purpose whatsoever;

“supervising officer” means the supervising officer of the Ministry;

[Inserted 7/2020 (cio 7/8/2020).]

“TradeNet” has the same meaning as in the Customs Act;

[Inserted 27/13 (cio 1/7/16).]

“water” means water as a medium, including ballast water, capable of harbouring marine and aquatic invasive alien species.

[S.2 amended by s. 36 of Act 27 of 2013 w.e.f. 1 July 2016; s.26 of Act 14 of 2019 w.e.f. 25 July 2019; s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

3. Application of this Act

This Act shall bind the State.

PART II – NATIONAL PLANT PROTECTION OFFICE

4. National Plant Protection Office

(1) There shall be a division of the Ministry which shall—

- (a) be known as the National Plant Protection Office or the NPPO; and
- (b) be the authority responsible for the enforcement of this Act in Mauritius.

(2) The NPPO shall consist of such officers as may be designated by the officer in charge of the Ministry.

(3) The officer in charge of the Ministry shall be responsible for the management and administration of the affairs of the NPPO.

5. Functions and powers of NPPO

(1) The functions of the NPPO shall be to—

- (a) implement the obligations of Mauritius under the International Plant Protection Convention;
- (b) issue phytosanitary certificates;
- (c) protect endangered areas and designate, maintain, and survey pest free areas and areas of low pest prevalence;
- (d) provide information to other countries concerning phytosanitary measures applied, either through pest risk analysis or by reference to applicable international standards;
- (e) distribute information concerning regulated pests and the means of their prevention and control;
- (f) propose, review and enforce phytosanitary measures;
- (g) notify phytosanitary measures to other countries in accordance with international obligations;
- (h) whenever appropriate, represent Mauritius in bilateral, regional, and international fora related to phytosanitary matters;
- (i) advise the Minister on such matters relating to the containment and eradication of regulated pests as it considers necessary or as may be requested by the Minister;
- (j) carry out such other functions as may be required to give effect to this Act.

(2) The NPPO shall have such powers as are necessary to discharge its functions under this Act.

6. Identity card

(1) The officer in charge of the Ministry shall issue an identity card to every officer of the NPPO.

(2) The identity card shall—

- (a) contain a recent photograph of the officer;
- (b) contain a copy of the officer's signature; and
- (c) state an expiry date for the card.

7. Display of identity card

(1) Subject to subsection (2), in the exercise of any power under this Act, in relation to another person, an officer shall produce his identity card for the other person's inspection before exercising the powers.

(2) Where it is not practicable to comply with subsection (1), the

officer shall produce his identity card for the other person's inspection at the first reasonable opportunity.

8. Surrender of identity card

(1) Every officer shall, if so requested by the officer in charge of the Ministry or, when he leaves the NPPO, forthwith surrender his identity card.

(2) Any officer who fails to surrender his identity card in the circumstances referred to in subsection (1) shall commit an offence.

PART IIA – PLANT BIOSECURITY TECHNICAL COMMITTEE

[Inserted 7/2020 (cio 7/8/2020).]

8A. The Committee

(1) There is set up for the purposes of this Act a Plant Biosecurity Technical Committee.

(2) The Committee shall consist of –

- (a) a Chairperson, who shall be the Director of the Agricultural Services;
- (b) a Vice-chairperson, who shall be the Deputy Director of the Agricultural Services;
- (c) a representative of the Ministry responsible for the subject of environment;
- (d) a representative of the Ministry responsible for the subject of health;
- (e) the Principal Scientific Officer of the NPPO;
- (f) an entomologist from the Agricultural Services;
- (g) a representative of the Food and Agricultural Research and Extension Institute;
- (h) a representative of the Mauritius Cane Industry Authority;
- (i) a representative of the University of Mauritius; and
- (j) a representative of the National Parks and Conservation Service.

(3) The Committee may co-opt such other person as may be necessary to assist it in relation to any matter before it.

(4) Every member shall be paid such fee or allowance as the Minister may determine.

[S. 8A inserted by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

8B. Functions of Committee

The Committee shall –

- (a) advise the Minister on policy issues relating to plant biosecurity and other related matters; and
- (b) make recommendations to the NPPO with regard to the importation of plant material which presents a high risk for the introduction or spread of pests.

[S. 8B inserted by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

8C. Meetings of Committee

(1) The Committee shall meet as often as may be necessary and at such time and place as the Chairperson may determine.

(2) The supervising officer shall designate an officer to act as Secretary to the Committee.

(3) The Secretary shall –

- (a) give notice of every meeting of the Committee to every member;
- (b) prepare and attend every meeting of the Committee;
- (c) keep minutes of proceedings of every meeting of the Committee; and
- (d) discharge such other functions as may be conferred upon him by the Committee.

(4) At any meeting of the Committee, 6 members shall constitute a quorum and in the event of equality of vote, the Chairperson shall have a casting vote.

(5) The Committee shall regulate its meetings and proceedings in such manner as it may determine.

[S. 8C inserted by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

PART III – CONTAINMENT AND ERADICATION OF PESTS

9. Duty on owner of premises

Every owner of premises who suspects or becomes aware of the presence of a regulated pest on his premises shall—

- (a) immediately notify the NPPO; and
- (b) send in writing a notice to the NPPO, within 7 days of his suspicion or of becoming aware of the presence of the regulated pest.

10. Pest quarantine area

(1) The Minister may, after consultation with the NPPO, declare any premises that are affected or suspected of being affected with quarantine pest infestation to be a pest quarantine area.

(2) A declaration under subsection (1) shall be published in the *Gazette* and may define the boundaries of the declared pest quarantine area.

(3) An officer may, upon declaration of a pest quarantine area, take immediate measures to—

- (a) prohibit the movement of people, conveyances, plants, plant products or other regulated articles from or to a specified location;
- (b) prohibit the planting or replanting of a specified location; and
- (c) take any other measure which he considers necessary under the circumstances.

11. Revocation of quarantine areas

Where, upon the advice of the NPPO, the Minister is of the opinion that—

- (a) the quarantine pest in respect of which a quarantine was declared is no longer present in the quarantine area; and
- (b) it is no longer appropriate for the quarantine to be maintained in respect of part or all of the infested area,

he shall revoke or modify the quarantine declaration and give notice of such revocation or modification in the *Gazette*.

12. Control measures for quarantine areas

(1) An officer may, where he reasonably believes that any premises within the quarantine area is being infested by a quarantine pest, exercise such powers as are assigned to him under this Act and require by way of notice—

- (a) the owner of the premises;
- (b) the owner of premises in the vicinity,

to take, within such period of time as may be specified in the notice, such measures as he thinks fit to eradicate, contain or restrict the spread of the quarantine pest.

(2) The officer may, in the notice referred to in subsection (1), specify that—

- (a) any treatment or destruction of plants or plant products and other regulated articles or other matter or things shall be carried out within a specified period of time or under the direction of an officer;
- (b) the costs of the treatment or destruction performed by, or under the direction of, an officer shall be at the cost of the owner of the premises.

(3) Where there is no person in actual occupation of any premises, or where the occupier cannot be found, service of any notice under this Act may be made by affixing the same in some conspicuous place on the premises, and such affixing shall be deemed to be sufficient service.

(4) Where the urgency of the situation so requires or the owner of any premises fails to comply with a notice issued under this section, the NPPO may take such measures as are appropriate to eradicate, contain or restrict the spread of the quarantine pest.

(5) Any cost incurred under subsection (4) may be claimed from the owner of the premises.

13. Declaration of pest free areas

(1) Where the NPPO is satisfied that a pest is not present in an area, it shall—

- (a) adopt phytosanitary measures to keep the area free of pest; and
- (b) institute a monitoring system to verify that that condition is maintained.

(2) The NPPO may declare an area being monitored under subsection (1) as a pest free area.

14. Declaration of areas of low-pest prevalence

(1) Where the NPPO is satisfied that a regulated pest occurs at low levels in an area, it shall—

- (a) adopt such phytosanitary measures as are appropriate to keep the pest levels low; and
- (b) institute a surveillance system to verify that the pest levels remain low.

(2) The NPPO may declare an area being monitored under

subsection (1) as an area of low-pest prevalence.

15. Pest surveillance programme

(1) The NPPO may, for the purpose of confirming the presence or ascertaining the extent of the presence of a pest to which the programme applies, in respect of a designated area, conduct a pest surveillance programme.

(2) The NPPO shall, as far as possible, ensure that timely information about the nature and extent of the programme is advertised to persons likely to be affected by the programme.

(3) No pest surveillance programme shall be conducted without the approval of the Minister and unless notice of the pest surveillance programme has been published in the *Gazette*.

16. Specific pest infestation

(1) Subject to subsection (3), an officer may, for the purpose of controlling or removing a regulated pest existing in or upon any premises or for the purpose of preventing the spread of any existing regulated pest to any premises, issue a notice in writing directing the owner of the premises forthwith, or within a time specified by the officer, to take such measures as he thinks fit, including to—

- (a) quarantine, upon conditions as directed, all or any part of the premises in question;
- (b) destroy any regulated pest thereon or any plants, packages or other matter or thing that are infested with a regulated pest;
- (c) treat as directed all or any part of the premises or any plant, plant products soil or other matter or thing thereon.

(2) Any direction given under subsection (1) may include—

- (a) a direction that the destruction shall be performed in accordance with the directions of, the officer;
- (b) a direction that the destruction shall be performed by, or under the direction of the officer.

(3) An officer shall not give a direction under subsection (1) ordering the destruction of any part of a healthy crop that is not infested with a regulated pest unless he considers it necessary to do so in order to prevent, control or remove pest infestation of plants.

(4) Where any part of a healthy crop that is not infested is destroyed pursuant to subsection (3), the owner of the crop shall be paid such compensation as may be prescribed.

(5) No compensation shall be paid to a person who commits an offence under this Act.

(6) For the purposes of this section, “crop” means a plant that is intentionally grown for its consumption as food or fodder or for its

resale or the sale of its products or for a commercial use.

17. Imminent risk of infestation on premises not under quarantine

(1) An officer may, where he is satisfied on reasonable grounds that there is an imminent risk of a pest infestation on any premises, other than premises in a pest quarantine area, exercise such powers as are assigned to him under this Act, to avoid the risk of a pest infestation.

(2) In considering whether there is an imminent risk of pest infestation on any premises, the officer shall have regard to—

- (a) the proximity of the premises to a known infestation of the pest; and
- (b) the ability of the pest to spread.

PART IV – IMPORT AND EXPORT

18. Phytosanitary measures for imports

(1) The NPPO may, in relation to the importation of plants, plant products and other regulated articles—

- (a) establish phytosanitary requirements;
- (b) refuse entry to or detain any plant, plant product or other regulated article that does not comply with the phytosanitary requirements established under paragraph (a);
- (c) require the—
 - (i) treatment;
 - (ii) destruction; or
 - (iii) removal from the territory of Mauritius, of any plant, plant product or other regulated article that does not comply with the phytosanitary requirements established under paragraph (a);
- (d) designate certain places as plant quarantine stations where plants, plant products or other regulated articles may be kept for phytosanitary observation, research, inspection, testing, treatment, detention or destruction; or
- (e) take such other action as may be prescribed.

(2) The NPPO shall publish the phytosanitary requirements established under subsection (1) in the *Gazette*.

19. Import requirements

(1) (a) Any person who imports or causes the importation of a plant, plant product or other regulated article shall apply for a plant import permit from the NPPO.

[Amended 27/13 (cio 1/7/16).]

(aa) An applicant under paragraph (a) shall provide such technical information as the NPPO may require.

[Inserted 27/13 (cio 1/7/16); R 14/19 (cio 25/7/19); 7/2020 (cio 7/8/2020).]

(b) The NPPO may issue a plant import permit on such terms and conditions as it may determine.

[RR. 4/17 (cio 20/5/17); RR14/19 (cio 25/7/19); RR 1/2020 (cio 23/3/2020).]

(c) (i) Notwithstanding this section, the NPPO may, on account of the COVID-19 virus having a negative impact on the economy of Mauritius, issue a plant import permit on such terms and conditions as it may determine.

(ii) In this paragraph –

“COVID-19 virus” means the novel coronavirus (2019-nCoV).

[Amended 27/13 (cio 1/7/16); R 14/19 (cio 25/7/19); added 7/2020 (cio 7/8/2020).]

(d) –

[Added 27/13 (cio 1/7/16); R 14/19 (cio 25/7/19).]

(2) Any importation made under subsection (1) shall be made through the point of entry designated in the plant import permit, and shall be accompanied by a phytosanitary certificate issued not more than 14 days prior to shipment, by the plant protection authority of the exporting country.

(3) The NPPO may, with the approval of the Minister, prohibit the importation of any plant, plant product or other regulated article based on the availability of such plant, plant product or other regulated article or based on such other circumstances as the Minister may determine.

[RR 7/2020 (cio 7/8/2020).]

(3A) A plant import permit shall be required where a consignment that has to be removed or split up from a freeport zone or from a bonded warehouse for the purpose of holding exhibitions, trade fairs or any other event in a freeport zone or in any other place.

[Inserted 7/2020 (cio 7/8/2020).]

(4) For the purposes of this section, “importation” includes landing or off-loading from any conveyance of any plant, plant product or other regulated article in transit through Mauritius.

[S.19 amended by s. 36 of Act 27 of 2013 w.e.f. 1 July 2016; s. 23 of Act 4 of 2017 w.e.f. 20 May 2017; s. 26 of Act 14 of 2019 w.e.f. 25 July 2019; s. 42(b) of

Act 1 of 2020 w.e.f. 23 March 2020; s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

20. Inspections

(1) Any plant, plant product and other regulated article imported into Mauritius may, upon importation, be subject to inspection at the point of entry, or at its final destination, by an officer.

[Amended 4/17 (cio 20/5/17).]

(2) An inspection under subsection (1) shall be carried out at such time as may be prescribed.

[Amended 27/13 (cio 1/7/16).]

(3) (a) Where the imported plant, plant product or other regulated article complies with the requirements under this Act, the officer shall authorise, in such manner as may be prescribed, delivery of the imported product to the importer.

[Amended 27/13 (cio 1/7/16).]

(b) Where an officer determines that the imported product fails to comply with the requirements of this Act, or otherwise presents any risk for the introduction or spread of pests, he shall notify, in such manner as may be prescribed, the importer of the reasons for his determination.

[Amended 27/13 (cio 1/7/16).]

(4) Where an officer has made a determination under subsection (3) (b), he may—

- (a) detain until the completion of laboratory tests;
- (b) remove for specified treatment prior to delivery;
- (c) remove for quarantine;
- (d) authorise the re-export of; or
- (e) destroy,

the imported product or part thereof.

(5) The authorisation or notification under subsection (3) may be waived where—

[Amended 27/13 (cio 1/7/16).]

- (a) the authorisation or notification is impracticable; or
- (b) [Amended 27/13 (cio 1/7/16).]

(b) the officer has reasonable grounds to believe that the destruction of the goods is urgently required.

(6) Where the imported product lies unclaimed for such period as an officer considers unreasonable after its entry into Mauritius or after treatment, the officer may take such action as is appropriate to destroy it.

(7) Any expenses incurred for any action taken under this section shall be at the cost of the importer.

21. Duty of notification of arrival

(1) Any person who imports or causes the importation of any plant, plant product or other regulated article shall—

(a) notify the arrival of the importation at least 2 days before;
[RR 1/2020 (cio 23/3/2020).]

(b) apply for phytosanitary inspection,
to an officer at the point of entry.

(1A) An application for a phytosanitary inspection under subsection (1) shall be made in such manner as may be prescribed.

[Inserted 27/13 (cio 1/7/16); RR 14/19 (cio 25/7/19).]

(2) Where an officer has reasonable grounds to believe that an importer may or is trying to avoid the enforcement of any phytosanitary measure, he may—

(a) detain or cause the detention of such plant, plant product or other regulated article; and

(b) take such measures as are appropriate under this Act.

[S. 21 amended by s. 29 of Act 27 of 2013 w.e.f. 1 July 2016; s. 26 of Act 14 of 2019 w.e.f. 25 July 2019; s. 42(b) of Act 1 of 2020 w.e.f. 23 March 2020.]

22. Export phytosanitary certification

(1) Any person exporting a plant, plant product or other regulated article from Mauritius shall apply for a phytosanitary certificate from the NPPO.

[Amended 27/13 (cio 1/7/16).]

(1A) —

[Inserted 27/13 (cio 1/7/16); R 14/19 (cio 25/7/19).]

(2) The NPPO shall, upon an application by an exporter under subsection (1), cause an inspection of the consignment to be carried out.

(3) The NPPO shall issue in such manner as may be prescribed, a phytosanitary certificate where—

[Amended 27/13 (cio 1/7/16)]

(a) the consignment meets the requirements of the importing country;

(b) the consignment satisfies every other requirement for export

under this Act; and

(c) the exporter has paid the prescribed fee.

(4) The NPPO may refuse to issue, in such manner as may be prescribed, a phytosanitary certificate where any of the requirements specified in subsection (3) has not been met.

[Amended 27/13 (cio 1/7/16).]

(5) Every application for a phytosanitary certificate under subsection (1) and the payment of the prescribed fee shall be made in such manner as may be prescribed.

[Inserted 27/13 (cio 1/7/16); RR 14/19 (cio 25/7/19).]

[S. 22 amended by s. 36 of Act 27 of 2013 w.e.f. 1 July 2016; s. 26 of Act 14 of 2019 w.e.f. 25 July 2019.]

23. Re-export phytosanitary certification

(1) When a consignment is imported into Mauritius, and then re-exported to another country, the NPPO shall issue, in such manner as may be prescribed, a re-export phytosanitary certificate in a form to be approved by the NPPO, upon—

[Amended 27/13 (cio 1/7/16).]

(a) being satisfied that the importing country's requirements are met; and

(b) payment of such fee as may be prescribed.

(2) The original phytosanitary certificate ~~or a certified copy shall~~ shall, in such manner as may be prescribed, accompany any consignment to be re-exported under subsection (1).

[Amended 27/13 (cio 1/7/16).]

(3) Every application for a re-export phytosanitary certificate under subsection (1) and the payment of the prescribed fee shall be made in such manner as may be prescribed.

[Inserted 27/13 (cio 1/7/16); RR 14/19 (cio 25/7/19).]

[S. 23 amended by s. 36 of Act 27 of 2013 w.e.f. 1 July 2016; s. 26 of Act 14 of 2019 w.e.f. 25 July 2019.]

24. Transit consignment

(1) Where a consignment is in transit, a phytosanitary certificate or re-export phytosanitary certificate may, depending on the plant, plant product or other regulated article in the consignment, be required.

[RR 7/2020 (cio 7/8/2020).]

(2) Where an officer has reasonable grounds to believe that the

consignment in transit may have been exposed to pest infestation, the officer may take such measures as are appropriate and issue a phytosanitary certificate.

(3) Where a consignment of plant, plant product or other regulated article is imported into the freeport zone and is destined to be sold on the local market, a plant import permit and a phytosanitary certificate shall be required prior to such import.

[RR 7/2020 (cio 7/8/2020).]

(4) In this section, a consignment is deemed to be in transit where –

- (a) a consignment which is not imported in Mauritius passes through Mauritius for another country, subject to such measures as may be prescribed, to ensure that the consignment remains enclosed, is not split up, is not combined with another consignment or has its packing changed; or
- (b) a consignment which is in a freeport zone or is removed from a bonded warehouse to a freeport zone, and the consignment is split up or has had its packing changed and re-labelled prior to export or re-export.

[Added 7/2020 (cio 7/8/2020).]

[S. 24 amended by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

25. Authorities to assist and co-operate

(1) The NPPO may request the assistance of the police, customs, or any authority or person, in the performance of its functions and in the exercise of its powers under this Act.

(2) Any authority to which or a person to whom a request has been made under subsection (1) shall provide such facilities and assistance as are necessary.

PART V – ENFORCEMENT

26. Powers of officers

(1) For the purposes of detecting pests or ensuring compliance with this Act, an officer may—

- (a) enter and search any place and make such investigation or inspection as is necessary for the purposes of this Act, including breaking open and searching any container, receptacle or enclosed place, conducting tests and taking samples of any matter or thing for testing or as evidence;
- (b) inspect consignments of plants, plant products and other regulated articles;

- (c) carry out pre-clearance inspections where requested;
- (d) treat or destroy any plant, plant product and other regulated article;
- (e) stop any conveyance, which an officer believes on reasonable grounds may harbour a pest;
- (f) seize any matter or thing that an officer believes —
 - (i) will be of evidential value in relation to the commission of an offence;
 - (ii) is a pest;
 - (iii) is infested with a pest,together with any container convenient to facilitate the seizure;
- (g) store, treat, quarantine or dispose of the plant, plant product or other regulated article at a place where it was seized or move it to any other place for storage, treatment, quarantine or disposition;
- (h) direct any person to furnish for inspection at such time and place as the officer may specify, any permit or record or copy of or extracts from permits or records prepared or kept for a purpose connected with this Act;
- (i) take notes or copies of, or extracts from, anything furnished pursuant to paragraph (h);
- (j) monitor plant movements;
- (k) take photographs for the purpose of enforcing this Act;
- (l) take samples of any matter or thing for testing or identification;
- (m) lay baits and set lures or traps;
- (n) question any person to ascertain whether this Act has been complied with;
- (o) direct a person to take such steps as may be appropriate to ensure compliance with this Act.

(2) An officer may, in the performance of his functions and the exercise of his powers under this Act, be assisted by a police officer.

(3) (a) An officer shall not enter any dwelling house for the purpose of carrying out any of his functions or exercise any of his powers under this Act, unless he is authorised to do so by a warrant from a Magistrate.

(b) A Magistrate shall not grant a warrant under paragraph (a) unless he is satisfied that the officer has reasonable grounds for requiring entry to the dwelling house.

(4) Any direction given pursuant to subsection (1) (h) shall not prejudice or affect in any way any proceedings or action that has been or may be taken for failure to comply that has resulted in the directions.

(5) A person who, without reasonable excuse, fails to comply with a direction or requirement under this section shall commit an offence.

(6) Nothing in this section shall be construed as prejudicing a person's right against self-incrimination.

27. Reasons for seizure

(1) An officer who seizes and detains a plant, plant product or other regulated article under this Act shall, as soon as is practicable, notify the owner of the plant, plant product or other regulated article of the reason for the seizure.

(2) An officer, who seizes and detains a plant, plant product or other regulated article shall not be required to comply with subsection (1) where, in his opinion, the destruction of any plant, plant product or other regulated article is urgently required or the giving of the reason for the seizure is impractical.

28. Appeal

Any person who is aggrieved by the decision of an officer to destroy, dispose of or treat those articles may lodge an appeal before the Minister in such manner as may be prescribed.

29. Offences

(1) Any person who, either personally or through another person—
[Amended 7/2020 (cio 7/8/2020).]

- (a) grows, is in possession of or sells, offers for sale, transports or distributes in any manner, plants, plant products or other regulated articles, knowing that they are infested by a quarantine pest;
- (b) fails to comply with any direction lawfully made or given under this Act;
- (c) imports or causes to import any plants, plant products or other regulated articles at a point of entry other than that stipulated in the import permit or authorisation;
- (d) imports into or causes to import into, exports or causes to export from Mauritius any plant, plant product or other regulated article without any phytosanitary certificate required under this Act;

[Amended 7/2020 (cio 7/8/2020).]

- (da) intentionally imports or causes to be imported into Mauritius any plant, plant product or other regulated article without a plant import permit;

[Inserted 7/2020 (cio 7/8/2020).]

- (e) intentionally permits or causes the introduction or spread of any quarantine pest in Mauritius;
- (f) fails to safeguard the phytosanitary security of a consignment after the issue of a phytosanitary certificate under this Act;
- (g) fails to allow a search or inspection or the taking of any sample authorised under this Act;
- (h) breaks the seal on a sealed container containing plants, plant products or other regulated articles, except in the presence of an officer;
- (i) knowingly or recklessly provides information which is false or misleading, for the purpose of obtaining any document under this Act;
- (j) alters, forges, defaces or destroys any document issued under this Act;

[Amended 7/2020 (cio 7/8/2020).]

- (k) puts on sale, distributes, markets or disposes of any plant, plant product or other regulated article in contravention of his plant import permit;

[Added 7/2020 (cio 7/8/2020).]

- (l) imports or causes to be imported any plant, plant product or other regulated article in any manner other than in accordance with this Act;

[Added 7/2020 (cio 7/8/2020).]

- (m) imports, grows, is in possession of or sells, offers for sale, transports or distributes, in any manner, a consignment of plant, plant product or other regulated article which were meant only to transit in Mauritius;

[Added 7/2020 (cio 7/8/2020).]

- (n) commercially exports or causes to be exported any plant, plant product or other regulated article in any manner other than in accordance with this Act;

[Added 7/2020 (cio 7/8/2020).]

- (o) is in possession of, transports or distributes or disposes, of quarantine wastes or detained material in any manner other than in accordance with this Act,

[Added 7/2020 (cio 7/8/2020).]

shall commit an offence.

(2) Any person who submits a false certificate or a certificate containing false or misleading information or other documentation to

facilitate the importation, exportation or clearance of a consignment shall commit an offence and shall, on conviction, liable –

(a) on a first conviction, to a fine of not less than 25,000 rupees and not exceeding 50,000 rupees;

(b) on a second and subsequent conviction, to a fine not exceeding 100,000 rupees;

[S. 29 amended by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

30. Penalties

(1) Any person who commits an offence under this Act shall, where no specific penalty is provided, be liable –

[Amended 7/2020 (cio 7/8/2020).]

(a) on a first conviction, to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months;

(b) on a second and subsequent conviction, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) The Court convicting a person of an offence under this Act may, in addition to any penalty provided for under subsection (1), order that any conveyance, article or object used in the perpetration of the offence, be forfeited.

(2A) Where an airline or a cruise ship passenger commits an offence under section 29(1)(d) or (da), he shall, notwithstanding subsection (1), be liable –

(a) on a first conviction, to a fine not exceeding 5,000 rupees;

(b) on a second and subsequent conviction, to a fine not exceeding 10,000 rupees;

[Inserted 7/2020 (cio 7/8/2020).]

[S. 30 amended by s. 51 of Act 7 of 2020 w.e.f. 7 August 2020.]

31. Protection from liability

The NPPO or any officer shall not be liable for the destruction of plants, plant products or other regulated articles, or any action done in good faith, in the implementation of any phytosanitary measure taken under this Act.

PART VI – MISCELLANEOUS

32. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the

Minister may make regulations to provide for—

- (a) the designation of points of entry for the importation of consignments;
- (b) the issue of permits and certificates;
- (c) the classification of pest;
- (d) declaration of a pest free area or an area of low pest prevalence;
- (e) requirements for export of consignments;
- (f) conditions under which consignments may be inspected under this Act;
- (g) destruction of consignments seized or detained under this Act;
- (h) the procedures to be followed for lodging an appeal under this Act;
- (i) fees payable in relation to inspections and services provided for under this Act;
- (j) the implementation of phytosanitary measures under this Act;
- (k) the approval of quarantine stations, official analysts and laboratories or any person or institution from the public or private sector involved in phytosanitary matters; and
- (l) amendment of the Schedules.

33. Saving

(1) —

(2) Any certificate, permit or authorisation granted under the repealed Plants Act, and which is still valid at the time of coming into operation of this Act, shall be deemed to have been issued under this Act.

34. —

Schedule [Section 2]

PART I – LIST OF QUARANTINE PESTS

Bacteria and Phytoplasmas

Acidovorax anthurii

Blood disease bacterium of banana

Cassava witches broom
Clavibacter michiganensis sub.sp michiganensis
Clavibacter michiganensis sub.sp sepedonicus
Curtobacterium flaccumfaciens pv flaccumfaciens
Erwinia stewartii
Erwinia tracheiphila
Palm lethal yellowing phytoplasma
Papaya bunchy top
Potato stolbur phytoplasma
Pseudomonas syringae pv lacrymans
Ralstonia solanacearum race 2
Ralstonia solanacearum race 3
Rhizobium radiobacter
Spiroplasma citri
Strawberry lethal decline phytoplasma
Sugarcane grassy shoot phytoplasma
Sugarcane white leaf phytoplasma
Sweet potato little leaf phytoplasma
Xanthomonas axonopodis pv citri
Xanthomonas axonopodis pv dieffenbachiae
Xanthomonas axonopodis pv passiflorae
Xanthomonas campestris pv musacearum
Xanthomonas fragariae
Fungi
Cronartium spp
Deuterophoma tracheiphila
Exobasidium vexans
Fusarium oxysporum f.sp. cubense
Mycosphaerella fijiensis
Peronophythora litchii
Peronosclerospora maydis
Peronosclerospora philippinesis
Peronosclerospora sacchari
Peronosclerospora sorghi
Peronospora hyoscyami f.sp tabacina
Phytophthora fragariae var fragariae
Phytophthora infestans A2
Synchytrium endobioticum
Insects and Mites
Acalymma trivittata
Acyrtosiphon pelargonii

Acyrtosiphon pisum
Aleurocanthus woglumi
Aleurocanthus zizyphi
Aleurodicus destructor
Aleurodicus dugesii
Aleyrodes protella
Anacridium melanorhodon
Anastrepha fraterculus
Anastrepha grandis
Anastrepha interrupta
Anastrepha ludens
Anastrepha mombinpraeoptans
Anastrepha obliqua
Anastrepha serpentina
Anastrepha striata
Anastrepha suspensa
Anoplophora chinensis
Anoplophora glabripennis
Aonidiella orientalis
Aphis coreopsidis
Aphis glycines
Aphis idaei
Aphis rubifolii
Aphis rumicis
Aphis sesbaniae
Aspidiotus nerii
Atranchya sp
Aulacaspis yasumatsui
Aulacophora foveicollis
Aulacophora indica
Aulacophora lewisii
Bactrocera correcta
Bactrocera cucumis
Bactrocera dorsalis
Bactrocera dorsalis species complex
Bactrocera invadens
Bactrocera neohumeralis
Bactrocera tau
Bactrocera tryoni
Bemisia tabaci biotype Q

Brevipalpus californicus
Cacoecimorpha pronubana
Cerataphis orchidearum
Ceratitis cosyra
Ceratitis malgassa
Ceratovacuna lanigera
Ceroplastes ceriferus
Ceroplastes destructor
Ceroplastes rubens
Ceroplastes rusci
Chaetanaphothrips signipennis
Chaetosiphon fragaefolii
Chaetosiphon fragariae
Chaetosiphon tetraerhodum
Chaetosiphon thomasi
Chromatomyia horticola
Chrysodeixis eriosoma
Cochliothrips melolonthoides
Dialeurodes citri
Dialeurodes citrifolii
Danothrips trifasciatus
Eldana saccharina
Eutetranychus orientalis
Epilachna varivestis
Frankliniella bispinosa
Frankliniella intonsa
Frankliniella fusca
Frankliniella occidentalis
Frankliniella schultzei
Gynaikothrips ficorum
Hayhurstia atriplicis
Helicoverpa assulta
Hercinothrips femoralis
Heteronychus arator
Heteronychus plebejus
Hoplochelus marginalis
Hylurgus ligniperda
Hysteroneura setariae
Icerya aegyptiaca
Leptinotarsa decemlineata
Leucinodes orbonalis

Liriomyza brassicae
Liriomyza bryoniae
Liriomyza sativae
Lopholeucaspis japonica
Maconellicoccus hirsutus
Macrosiphum pelargonii
Mamestra brassicae
Megalurothrips distalis
Megalurothrips usitatus
Melanoplus differentialis
Myzus ascalonicus
Myzus ornatus
Neoaliturus opacipennis
Neoaliturus tenellus
Nipaecoccus nipae
Parlatoria oleae
Parlatoria pergandii
Paysandisia archon
Perkinsiella vastatrix
Perkinsiella vitiensis
Petrobia latens
Pezothrips kellyanus
Phoracantha recurva
Phthorimaea operculella
Planococcus minor
Planococcus musae
Pseudococcus calceolariae
Pseudococcus comstocki
Pseudococcus jackbeardsleyi
Quadraspidotus perniciosus
Rastrococcus iceryoides
Rastrococcus invadens
Rhopalosiphon padi
Rhagoletis cerasi
Rhagoletis pomonella
Rhynchophorus ferrugineus
Rhynchophorus phoenicis
Scirtothrips dorsalis
Sesamia cretica
Sitobion fragariae

Symmetrischema tangolias
Tetranychus cinnabarinus
Thrips flavus
Thrips hawaiiensis
Thrips imaginis
Thrips parvispinus
Toxoptera odinae
Trialeurodes ricini
Trialeurodes vaporariorum
Trichoplusia ni
Unaspis yanonensis
Uroleucon ambrosiae
Nematodes
Anguina tritici
Aphelenchoides besseyi
Aphelenchoides fragariae
Bursaphelenchus xylophilus
Ditylenchus destructor
Ditylenchus dipsaci
Globodera pallida
Globodera rostochiensis
Heterodera schachtii
Meloidogyne chitwoodi
Meloidogyne fallax
Meloidogyne hapla
Nacobbus aberrans
Pratylenchus goodeyi
Pratylenchus penetrans
Radopholus similis
Rhadinaphelenchus cocophilus
Tylenchulus semipenetrans
Virus and Viroids
Andean potato latent virus
Andean potato mottle virus
Avocado sun blotch viroid
Banana bunchy top virus
Bean golden mosaic virus
Banana bract mosaic virus
Cassava African mosaic virus
Cassava brown streak virus
Cassava common mosaic virus

Chilli veinal mottle virus
Citrus cachexia viroid
Citrus exocortis viroid
Citrus infectious variegation
Citrus leaf rugose virus
Citrus tatter leaf virus
Citrus psorosis
Citrus vein enation virus
Citrus yellow mosaic virus
Coconut cadang cadang viroid
Coconut foliar decay virus
Cowpea aphid borne mosaic virus
Cowpea mild mottle virus
Cucumber green mottle virus
Dasheen mosaic virus
Impatiens necrotic spot virus
Lettuce infectious Yellows virus
Papaya ringspot virus P
Pepper mild mottle virus
Pineapple wilt virus
Potato spindle tuber viroid
Potato virus T
Sorghum mosaic virus
Squash leaf curl virus
Squash mosaic virus
Strawberry crinkle virus
Strawberry latent ringspot virus
Strawberry mild mottle virus
Strawberry mild yellow edge virus
Strawberry vein banding virus
Sugarcane fiji disease
Sugarcane mosaic virus
Sugarcane streak mosaic virus
Sweet potato feathery mottle virus
Sweet potato yellow dwarf virus
Tobacco ringspot virus
Tomato black ring virus
Tomato bushy stunt virus
Tomato ringspot virus
Tomato spotted wilt virus

Tomato yellow leaf curl virus

PART II – LIST OF REGULATED NON-QUARANTINE PESTS

Bacteria and Phytoplasmas

Candidatus liberobacter asiaticum

Candidatus liberobacter africanum

Clavibacter xyli subsp xyli

Erwinia chrysanthemi

Xanthomonas albilineans

Xanthomonas axonopodis pv mangiferae indicae

Xanthomonas axonopodis pv phaseoli

Xanthomonas axonopodis pv vasculorum

Xanthomonas axonopodis pv vesicatoria

Xanthomonas axonopodis pv vitians

Xanthomonas campestris pv campestris

Pseudomonas savastanoi pv phaseolicola

Pseudomonas syringae pv tomato

Xylella fastidiosa

Fungi

Alternaria dauci

Cercospora kikuchii

Colletotrichum acutatum

Colletotrichum capsici

Colletotrichum coccoides

Helminthosporium solani

Mycosphaerella citri

Mycosphaerella eumusae

Mycosphaerella musicola

Phytophthora capsici

Phytophthora colocasiae

Phytophthora infestans

Spongospora subterranea f.sp subterranea

Stenocarpella macrospora

Stenocarpella maydis

Urocystis cepulae

Insects and Mites

Acyrtosiphon solani

Aphis craccivora

Aphis gossypii

Bemisia argentifolii

Bemisia tabaci

Diaphorina citri

Dysmicoccus brevipes
Macrosiphum euphorbiae
Melanaphis sacchari
Myzus persicae
Perkinsiella saccharicida
Phthorimaea operculella
Rhopalosiphon maidis
Saccharicoccus sacchari
Toxoptera citricidus
Trioza erythrae
Nematodes
Meloidogyne arenaria
Meloidogyne incognita
Meloidogyne javanica
Pratylenchus brachyurus
Scutellonema brachyurum
Virus and Viroids
Banana streak virus
Bean common mosaic virus
Bean yellow mosaic virus
Beet curly top virus
Carnation etch ring virus
Carnation necrotic fleck virus
Carnation ringspot virus
Chrysanthemum stunt viroid
Citrus tristeza virus
Cowpea mild mottle virus
Cymbidium mosaic virus
Grapevine fan leaf nepovirus
Lettuce mosaic virus
Odontoglossum ringspot virus
Orchid fleck virus
Peanut clump virus
Peanut mottle virus
Peanut rosette virus
Peanut stripe virus
Pea seedborne mosaic virus
Pelargonium leaf curl virus
Pepper mild mottle virus
Raspberry ringspot virus

Tobacco necrosis virus

Tobacco streak virus

Vanilla mosaic potyvirus
