

PLANT QUARANTINE ACT, 1982

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I assent.

[L.S.]

G. K. CAKOBANU

Governor-General

6th May 1982

AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO PLANTS
AND PLANT DISEASES

ENACTED by the Parliament of Fiji—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Plant Quarantine Act, 1982, and shall come into force on a date to be notified by the Minister in the Gazette.

Interpretation

2. In this Act unless the context otherwise requires—

- “contamination” means infestation or infection by plant pests, or association with infected plant materials or soil so as to be in a dangerous state or injurious to the health of human beings, animals or plants;
- “conveyance” means any ship, aircraft, vehicle, or other means of transport, or any shipping container;
- “first port of entry” in relation to any conveyance or article means the port or airport in Fiji which the conveyance or article first enters;
- “garbage” means mixed refuse, waste material derived in whole or in part from plants, fruits, vegetables, meat or other plant or animal material, or other refuse of any character whatsoever that has been associated with any fruits, vegetables, meats or other plant or animal material;

- "infected" means the harmful condition caused by plant disease pathogens;
- "infested" means the presence of plant pests other than plant pathogens;
- "inspection", in relation to plants, plant material, regulated material, conveyances, containers, or other articles, areas of land, buildings or spaces, means the examination thereof for the purpose of detecting contamination or plant pests;
- "inspector" means an inspector appointed under section 3, or a temporary inspector or an assistant inspector so appointed;
- "Ministry" means the Ministry responsible for agriculture;
- "noxious weed" means any plant which either directly or indirectly causes injury to the health of human beings, animals or plants or which is, or is likely to become, a nuisance to the owner, occupier or user of any land or water or of anything thereon;
- "permit" means a written authorization issued by the Minister for the movement into or through Fiji of plants, plant material, plant pests, regulated material or conveyances;
- "phytosanitary certificate" in relation to any plant or plant material means an official certificate issued by an officer of a plant protection authority of the country of origin of the plant or plant material, substantially in the format of the Model Certificate of the International Plant Protection Convention, certifying that the plant or plant material to which it refers has been inspected and found free from agricultural pests, and substantially free from other injurious pests;
- "plants" means all species, varieties and types of live plants or parts thereof including stems, branches, tubers, bulbs, corms, stocks, budwood, cuttings, layers, slips, suckers, roots, leaves, flowers, fruits, seeds, botanical specimens (whether dead or alive) and any other plant growth other than items manufactured wholly or in part from a plant or its parts;
- "plant material" includes timber and other items manufactured wholly or in part from plants;
- "plant pest" means an organism of plant or animal origin which can directly or indirectly cause injury or damage to plants, including any living stage of insect, mite, nematode, snail, slug, or other invertebrate animal, bacteria, fungi, virus or similar organism;
- "quarantine station" includes a temporary quarantine station, a quarantine check-point, a post-entry quarantine station and all facilities and services related to a quarantine station or check-point;

- "re-ship" in relation to any imported plant, plant material, or regulated material, means to send it out of Fiji, either by the ship or aircraft in which it was imported, or by any other ship or aircraft;
- "regulated material" means garbage, soil, plant pests, and other materials, substances or articles (not being plants or plant material) the importation or movement of which is prohibited or regulated under the provisions of this Act or of any regulations or orders made thereunder;
- "soil" means loose earth material including rock, disintegrated rock with an admixture of organic material and soluble salts, gravel, compost and clay;
- "timber" includes logs, branchwood, firewood and bark, and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured, and prefabricated building units, poles and the like, cross-arms, shakes and shingles;
- "to treat" means to take measures to ensure removal of injurious materials or the elimination, sterilization or killing of any plant pests for the avoidance of contamination including among other measures, the cleaning, incineration, disinfection and disinfestation of plants, plant material and regulated material, or the re-shipment thereof, and the destruction of plant pests.

Inspectors

3.—(1) The Public Service Commission shall appoint such inspectors as may be necessary for the proper carrying out of the provisions of this Act.

(2) Without prejudice to subsection (1), the Minister may, by instrument in writing, appoint any officer in the Ministry to be a temporary inspector or an assistant inspector and any officer so appointed shall perform such duties, not inconsistent with the provisions of this Act, as may be specified by the Minister in the instrument of appointment.

Quarantine stations

4.—(1) The Minister may, by notification in the Gazette, appoint any land under the control of the Crown to be a quarantine station for the purposes of this Act.

(2) The Minister may give directions on the regulation, management and control of quarantine stations and the disposal, treatment or destruction of plants, plant material and regulated material while in a quarantine station or in transit to and from a quarantine station, and may by any such direction specify the time during which any plant, plant material or regulated material intended to be introduced into Fiji shall remain in a quarantine station.

PART II—POWERS OF INSPECTORS

Powers of entry

5.—(1) In the exercise of his powers, an inspector may at any reasonable time enter any conveyance, land, or building, other than a dwelling house, for the purpose of inspection of plants, plant material, or regulated material.

(2) Before acting under the provisions of this section the inspector shall, if requested to do so by the person in charge of the conveyance or in occupation of the land or building, produce documentary evidence of his appointment and identity, signed by the Minister.

Examination of documents

6. An inspector may, in carrying out his functions under this Act, or under any regulations or orders made thereunder examine any log, manifest, cargo stowage plan, passenger list or crew list or other document in any ship or aircraft.

Search

7. An inspector may in carrying out his functions under this Act or under any regulations or orders made thereunder, at any reasonable time examine cargo, mail, baggage, conveyances, containers, or areas for the purpose of inspecting plants, plant material, or regulated material.

Opening of containers etc.

8. An inspector may require the importer of any box, case, receptacle, or container to open it or cause it to be opened at the importer's expense, for inspection.

Phytosanitary certificates for export

9. An inspector may, at the request of an exporter, sample and inspect any shipment of plants or plant material and issue phytosanitary certificates in respect of those which have been found to be free from agricultural pests and substantially free from other injurious pests.

Obstructing inspectors

10. Any person who directly or indirectly obstructs, hinders, interrupts, threatens, or assaults an inspector in the performance of his functions under this Act shall be guilty of an offence and shall be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Restriction on importation of plants

11. No person shall import or offer for importation any plant (including any noxious weed) except by a permit issued by the Minister and in accordance with such conditions as he may specify in the permit, including conditions that any plant so imported shall be grown under post-entry quarantine by, or under the supervision of, the Minister for such period as he may require for the purpose of determining whether the plant is infested or infected with plant pests, and that such remedial measures be taken as the Minister may consider necessary to prevent the spread of such infestation or plant pests.

Restriction on importation of plant material

12.—(1) Subject to subsection (2), no person shall import or offer for importation any plant material except by a permit issued by the Minister and in accordance with such conditions as he may specify in the permit.

(2) The provisions of subsection (1) shall not apply to plant material other than timber if, after examination, an inspector is satisfied that such plant material is free from diseases and pests.

Restriction on importation of cultures etc.

13. No person shall import or offer for importation any living culture or organisms including parasites, predators, arachnids, insects, nematodes, fungi, bacteria, viruses, mycoplasma, plant parasitic organisms, or other invertebrate animals except by a permit issued by the Minister and in accordance with such conditions as he may specify in the permit.

Prohibition of importation of plants, plant material etc. by order

14. Notwithstanding sections 11, 12 and 13, the Minister may by order prohibit the importation of any plant, plant material or regulated material either generally or from any specified place and either absolutely or subject to such conditions or restrictions as he may specify in the order.

Notification of imports

15.—(1) Every importer of plants, plant material or regulated material shall notify the Minister of the intended date of arrival thereof and shall furnish the Minister with such additional information as he may require.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Inspection on arrival

16. On the arrival from any place outside Fiji of any ship or aircraft an inspector may inspect—

- (a) any plants, plant material or regulated material intended for importation; and
- (b) any plants, plant material or regulated material which has been landed from such ship or aircraft,

and if found to be contaminated, the inspector may require that it be denied entry, disposed of, or treated in such a manner as to eliminate the contamination prior to its release from the control of Customs.

Inspection of intransit shipments

17.—(1) When a ship or aircraft carrying plants, plant material or regulated material from any place outside Fiji arrives at its first port of entry, the importer thereof shall land all or any such part thereof as the inspector may direct for inspection and treatment if required, and such plants, plant material or regulated material shall not be removed, transhipped or diverted for inspection, treatment or discharge at a second destination or port of entry except in the manner directed by the inspector.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Importation for research

18. Any plant, plant material or regulated material the importation of which may be prohibited from any country or place under the provisions of this Act or any regulations or orders made thereunder may be imported for scientific research purposes by the Minister, or any organisation approved by him, upon such conditions as he may determine.

Inspection and treatment

19. On the arrival of a conveyance in Fiji, if an inspector has reason to believe the conveyance is contaminated or otherwise infected he may enter and inspect the conveyance and apply seals, treatment or other measures commensurate with any risk of the presence or spread of plant pests.

Ports of entry

20.—(1) No plant, plant material or regulated material may be imported except through the ports or airports prescribed for the entry of plants, plant material or regulated material.

(2) Plants, plant material or regulated material requiring treatment as a condition of entry may be imported only through those ports or airports specified for entry thereof in the permit for the importation thereof.

(3) Plants, plant material or regulated material arriving at the first port of entry may be permitted by an inspector to be diverted under Customs control to an alternate port or airport subject to such conditions as the inspector may direct for treatment and disposition in accordance with paragraph (b) subsection (4).

(4) When a conveyance carrying plants, plant material or regulated material arrives in Fiji, the following provisions shall be observed—

- (a) plants, plant material or regulated material intended to be conveyed to ports or airports other than the first port of entry may be allowed to proceed to the ports or airports of destination if treatment facilities are available at such ports or airports;
- (b) plants, plant material or regulated material intended to be conveyed to ports or airports where treatment facilities are not available shall be landed for inspection, and treatment if required, or shall be diverted to a port or airport where treatment facilities are available there to be landed, inspected and treated if necessary and transhipped under Customs control;
- (c) an inspector shall issue a release in writing when he is satisfied that the shipment of plants, plant material or regulated material complies with the requirements of this Act.

(5) Any person who contravenes subsection (1) or subsection (2) or who takes from the control of Customs any plant, plant material or regulated material before an inspector has issued a release in respect thereof in terms of paragraph (c) of subsection (4) shall be guilty of an offence and shall be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Destruction for non-compliance

21. Where any plant, plant material or regulated material is in the control of Customs or the Posts and Telecommunications Department and the importer, after receiving notice from an inspector that its importation or removal from such control, as the case may be, is prohibited, or prohibited until such measures as the inspector specifies have been taken, does not within such time as the inspector specifies re-ship such plant, plant material or regulated material or, take the measures specified, the Minister may if satisfied that it is contaminated, cause it to be destroyed at the expense of the importer and no proceedings shall lie in respect of such destruction:

Provided that an inspector may take such immediate action or require the importer to take such immediate action as he may consider necessary to prevent the spread of any contamination present in any plant, plant material or regulated material and such action may include immediate destruction thereof if, in the opinion of the inspector, no other action is likely to prevent the spread of such contamination.

Seizure and quarantine

22.—(1) Any plant, plant material or regulated material imported in contravention of the provisions of this Act or of any regulations or orders made thereunder may, together with anything cultivated therefrom and any other thing which may thereby be infected, be seized by an inspector and may be disinfected, or be required to be taken to a quarantine station or be placed in isolation or under quarantine conditions for further inspection and treatment as may be required.

(2) Whenever the Minister considers it necessary to do so, he may direct that anything seized pursuant to subsection (1) be destroyed or otherwise disposed of and no proceedings shall lie in respect of such destruction or disposal.

Noxious weeds

23. (1) No person shall import into or move within Fiji any noxious weed except by a permit issued by the Minister and in accordance with such conditions as he may specify in the permit.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Identification of packages

24. Boxes, cases, crates, packages, bales, or other containers in which imported plants, plant material or regulated material are packaged shall be identified in the prescribed manner and display by the prescribed means the general nature of the contents, country and locality of origin, name and address of the shipper, and the consignee and any other prescribed information.

Declaration by passengers

25. Persons arriving in Fiji shall declare in writing on the Declaration form used for customs purposes, or in such other manner as may be prescribed, their intention to import plants, plant material or regulated material and it shall be the duty of the Customs officers at the time of importation thereof to obtain such declaration from each person arriving from overseas.

Discharge of garbage

26.—(1) No person shall, without the permission of an inspector and subject to such terms and conditions as he may impose, discharge any garbage into the territorial seas of Fiji, or cause it to be so discharged, or to be landed from an aircraft or ship.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

Plants suspected to have been illegally imported

27.—(1) An inspector may require any person possessing any plant or plant material which has been imported to furnish proof that the importation thereof was effected in accordance with the provisions of this Act.

(2) If proof under subsection (1) is not furnished to the satisfaction of the inspector, the plant or plant material may be seized and may be dealt with in terms of section 22.

Unlawful importation or removal

28. Any person who—

- (a) imports any plant, plant material or regulated material contrary to the provisions of this Act;
- (b) removes from the control of Customs or of the Posts and Telecommunications Department, as the case may be, any plant, plant material or regulated material the removal of which from such control has been prohibited by an inspector;
- (c) without having taken the specified measures, removes from the control of Customs or of the Posts and Telecommunications Department, as the case may be, any plant, plant material or regulated material the removal of which from such control has been prohibited unless specified measures have been taken,

shall be guilty of an offence and liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

PART III—DOMESTIC QUARANTINE CONTROL

Eradication of plant pests

29.—(1) Whenever it shall be determined by an inspector that any land, place, conveyance, article or substance is infected or infested, written notice thereof shall be given by him to the person in possession thereof, or if there is no person in possession, the owner thereof, who shall forthwith control,

eradicate and prevent dissemination of all plant pests therefrom, and shall remove, cut, destroy or treat any infested or infected plant, plant material, conveyance, article or substance which the inspector declares in the notice to be infected or infested within the time and manner specified in the notice.

(2) Whenever the owner cannot be found or he or the person in possession fails, neglects, or refuses to comply with the requirements so specified by the inspector within the time specified, the inspector may carry out those requirements or cause them to be carried out at the expense of the owner or person in possession as the case may be.

Emergency regulations

30.—(1) Without prejudice to any other provisions of this Act, if it appears to the Minister that contamination of plants exists or is threatened in any part of Fiji to such an extent or in such manner or by such means, as by the spread thereof, to become dangerous or injurious to the health of human beings, animals or plants in any other part of Fiji, or the whole of Fiji, the Minister may make regulations for eradicating and preventing the spread of such contamination, and without prejudice to the generality of the foregoing, such regulations—

(a) may authorise an inspector—

- (i) to enter any property (except a dwelling house) and to destroy or cause to be destroyed by any appropriate means, including burning, any vegetation, plants, or animals which are in a dangerous state or are injurious to the health of human beings, animals or plants;
- (ii) to carry out at such ports, airports or other places as may be prescribed in such regulations the inspection of vessels, aircraft, vehicles or articles;
- (iii) to cause any vessel, aircraft, vehicle or article, and any animal, article or thing thereon or therein to undergo such treatment as may be specified by an inspector; and

(b) may impose restrictions on the movement of any plants, plant material, regulated material, conveyance, animal or other article within any area specified in the regulations as an infected area, or from such an infected area to any other area.

(2) Without prejudice to the power of the Minister to revoke at any time regulations made under subsection (1), such regulations shall lapse at the expiration of six months from the date of their coming into force unless in the meantime they have been approved by a resolution of each House of Parliament in which case they shall remain in force for a further period of six months from the passing of the later of such resolutions.

PART IV—GENERAL

Protection against claims

31. No proceedings shall lie against the Crown, an inspector or any public officer in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Act or any regulations or orders made thereunder in good faith and without negligence.

Fees and charges

32. The prescribed fees or other charges may be imposed on importers or other persons for permits, phytosanitary certificates, or for the services of an inspector, or for space used in quarantine stations or facilities or for application of treatment required under this Act.

Enforcement of conditions imposed

33. Any person who contravenes any condition or requirement specified in, or imposed by, any permit, notice or other instrument issued under any provision of this Act or of any regulations or orders made thereunder, shall be deemed to have contravened the provision under which such permit notice or instrument was issued.

Penalties

34. Any person who is guilty of an offence under this Act or of any regulations or orders made thereunder for which no penalty is otherwise expressly provided shall be liable to a fine not exceeding two thousand dollars, and in the case of a continuing offence, to a further fine of one hundred dollars for every day on which the offence is continued or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Destruction of plants

35. Whenever a person is convicted of an offence punishable under this Act or of any regulations or orders made thereunder, the court before which he is convicted may order the destruction of the plant, plant material, regulated material or other item, if any, in respect of which the offence has been committed.

General regulations

36. The Minister may make regulations for the better carrying out of the purposes of this Act and for preventing the introduction or spread of any plant pest or disease to which plants and plant material are liable, and the eradication and spread of noxious weeds, and in particular, but without prejudice to the generality of the foregoing, for all or any of the following purposes:—

- (a) for declaring quarantine areas, and for prescribing the measures which may be taken therein to prevent the introduction and spread of weeds, pests and diseases of plants;

- (b) for declaring any plant to be a noxious weed throughout Fiji or in any part or parts thereof;
- (c) for the inspection of cargo and passengers' baggage prior to importation;
- (d) for the disinfection of ships and aircraft whether arriving from outside Fiji or proceeding from one place to another within Fiji and of cargo, baggage and clothing and personal effects of passengers;
- (e) for the disinfection of plants, plant material and regulated material;
- (f) for requiring vessels to remain at prescribed distances from shore;
- (g) for the licensing and inspection of nurseries or other places in which plants are reared for the purpose of sale or other method of disposal;
- (h) for the designation of specific areas for the planting of particular plants;
- (i) for the prohibition of planting of particular plants in specified areas;
- (j) for prescribing the fees or charges to be paid in respect of any permits or certificates or for inspections or treatment carried out under this Act;
- (k) for prescribing forms for the convenient and efficient carrying out of the provisions of this Act;
- (l) for any other matter to be prescribed under this Act or any other purpose for which, under this Act, regulations may be made.

Power of exemption etc.

37.—(1) The Minister may by order, subject to such conditions as he may see fit to impose, exempt any person or conveyance or any class of person or conveyance from all or any of the provisions of this Act or of any regulations or orders made thereunder.

(2) Subject to such limitations as he may think fit, the Minister may authorise the Permanent Secretary responsible for agriculture to perform or exercise any of the functions of the Minister under this Act, other than any power to make regulations or orders.

Repeal and saving

38.—(1) The Noxious Weeds, Pests and Diseases of Plants Act is repealed.

(2) Notwithstanding the repeal of the Noxious Weeds, Pests and Diseases of Plants Act, any regulations made thereunder, and any appointment, permit or permission made or issued thereunder, or under any such regulations, if in force at the commencement of this Act, shall continue in force until revoked, cancelled, superseded, or otherwise terminated, and so far as they

could have been made or issued under this Act shall have effect as if so made or issued, and the provisions of this Act shall apply in relation to such regulations, appointments, permits or permissions which may accordingly be revoked, cancelled, rescinded or varied under the provisions of this Act.

Passed by the House of Representatives this twenty-first day of April, in the year of our Lord one thousand, nine hundred and eighty-two.

Passed by the Senate this fourth day of May, in the year of our Lord one thousand, nine hundred and eighty-two.