

CHAPTER 7.12**PLANT PROTECTION ACT****Arrangement of Sections**

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CHAPTER 7.12

PLANT PROTECTION ACT

(Act 21 of 1988)

AN ACT to provide for the control of pests and diseases injurious to plants and to prevent the introduction of exotic species of the same.

Commencement [30 December 1988]

1. SHORT TITLE

This Act may be cited as the Plant Protection Act.

2. INTERPRETATION

In this Act—

“**carrier**” includes an aircraft, a vessel, or vehicle;

“**designated officer**” means an officer of the Ministry designated under section 15;

“**fruits and vegetables**” include all edible portions of food plants in the raw or unprocessed state;

“**internal waters**” means the internal waters of Saint Lucia as defined in the Maritime Areas Act;

“**Minister**” means the Minister charged with the responsibility for Agriculture and “**Ministry**” shall be construed accordingly;

“**notifiable pest**” means any plant pest of substantial economic importance for which measures must be taken for its eradication, control or to prevent its further spread;

“**occupier**” in relation to any land or building means the person in actual occupation or, where there is no such person, the owner of the land or building;

“**owner**” includes the person who is entitled to receive the rent;

“**plant pest**” means any living stage of any insect, mite, nematode, slug, snail, protozoa or other invertebrate or

vertebrate animal, bacterium, fungus, weed, parasitic plant or reproductive part thereof, viruses, mycoplasmas, or any organism similar or allied with any of the foregoing capable of causing damage to any plant or plant product;

“**plant product**” means any substance, material or article of vegetable origin, including pollen either processed or unprocessed, which is capable of harbouring or transporting plant pests;

“**plant protection services**” means those services established under section 15;

“**plant quarantine services**” means those services established under section 15;

“**planting material**” includes any tree, shrub, vine, cutting, graft, scion, bud, bulb, root, seed, and any other plant part capable of propagation;

“**receptacle**” includes any package, box, container, covering, wrapper or any article in which plants are or have been imported, kept or conveyed, or which is used to transport plant pests;

“**soil**” means the loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

3. POWER TO RESTRICT IMPORTATION OF PLANT MATERIAL

Whenever the Minister considers that the unrestricted importation into or movement within Saint Lucia of any planting material, fruit, vegetable, plant product, plant pests, soil, or any other non-plant article may result in the entry or movement of plant pests, which may threaten the agricultural resources of Saint Lucia, he or she is authorised to prohibit or otherwise restrict the importation or movement of such planting material, fruit, vegetable, plant product, plant pest, soil or non-plant product to protect the agricultural resources of Saint Lucia.

4. MAIL

Any product or article referred to in section 3 which is handled by the post office shall be subject to regulations administered jointly by the postal services and the plant quarantine service.

5. IMPORTATION FOR EXPERIMENTAL PURPOSES

Any planting material, plant pests or live beneficial organisms may be imported for experimental purposes by any person authorised by the Minister and only under such conditions and regulations as may be prescribed by the Minister.

6. PERMIT REQUIREMENTS

A person shall not import or offer for entry into Saint Lucia any planting material, fruit, vegetable, plant product, plant pests, predators or parasites of plant pests, or soil except under a permit issued by the Minister in accordance with this Act or regulations made thereunder.

7. EMERGENCY PERMITS

The Minister may issue an emergency permit for the entry of certain pre-determined planting material, fruits, vegetables or plant products offered for entry and for which no permit was previously granted provided the planting material, fruits, vegetables or plant products are found to be free of plant pests.

8. CERTIFICATION REQUIREMENT

A planting material, fruit, vegetable, plant product, plant pest, live beneficial organisms, or soil shall not be imported into Saint Lucia unless a phyto-sanitary certificate has been issued for that planting material, fruit, vegetable, plant pest, live beneficial organism or soil by the plant health authority of the exporting country which conforms to the model adopted by the International Plant Protection Convention of 1951 and to any amendment thereto or to any Convention in substitution therefor to which Saint Lucia has adhered.

9. POST ENTRY

The Minister may by order made by statutory instrument—

- (a) limit the importation of any planting material, fruit, vegetable, plant product, plant pest, and soil as he or she may deem necessary;
- (b) require that imported planting material be grown under quarantine and under the supervision of the plant quarantine service;
- (c) prescribe remedial measures as may be necessary to prevent the establishment and spread of any plant pest.

10. ORDER MODIFYING PERMIT

When a permit has been granted for the importation of any planting material, fruit, vegetable, plant product, plant pest, live beneficial organism or soil, but an order affecting this permit is subsequently made under this Act, the permit may be revoked or modified as may be required so that the entry requirements of the material or articles under consideration shall be consistent with the relevant order issued by the Minister.

11. ARRIVAL NOTIFICATION

- (1) The Comptroller of Customs shall notify a designated officer of the plant quarantine service of the arrival of any planting material, fruit, vegetable, plant product, plant pest, soil, or other articles regulated by this Act at the port of arrival.
- (2) The Comptroller of Customs shall not release or dispose of the material or article referred to in subsection (1) unless so authorised by the plant quarantine service.
- (3) When a designated officer receives a notification under subsection (1) that officer shall inspect or cause the planting material, fruit, vegetable, plant product, plant pest, soil or other articles to be inspected.

12. SAFEGUARDS

- (1) Any product or article which is prohibited or restricted entry for importation under this Act or any regulation made thereunder, if

temporarily in the internal waters of Saint Lucia, shall be subject to such conditions as may be deemed necessary by the Minister to carry out the purposes of this Act.

- (2) Subsection (1) applies to carriers, their stores and furnishings.

13. EXPORT CERTIFICATION

The Minister shall issue such orders and use such means as he or she deems necessary to provide for the inspection of domestic plants and plant products offered for export and to certify to shippers and interested parties as to the freedom of such products from injurious plant pests according to the phyto-sanitary requirements indicated on the model certificate adopted by the International Plant Protection Convention of 1951, or as amended or replaced by a new Convention, to which Saint Lucia shall have adhered.

14. EXCLUSION OF LIABILITY

- (1) The Government is not liable for—
- (a) the destruction of material brought into the country in violation of this Act or any order issued thereunder; and
 - (b) any damage done, or delays incurred by treatments or other quarantine action deemed necessary and performed under the existing law.
- (2) Any destruction, treatment or action taken under the Act by a designated officer in accordance with this Act shall be done at the sole risk of the importer.

15. PLANT QUARANTINE SERVICES

- (1) The Minister may establish such Plant Protection and plant quarantine services as may be required to protect the agricultural resources of Saint Lucia.
- (2) The Minister may by letter, in writing, designate officers of his or her Ministry to administer and enforce the provisions of this Act.

16. ENFORCEMENT AUTHORITY

Any designated officer authorised to enforce the provisions of this Act and furnished with suitable identification shall—

- (a) if he or she has cause to believe that any person, receptacle, or carrier coming into or moving within Saint Lucia possesses, contains or carries any planting material, fruit, vegetable, plant product, plant pest, soil or non-plant article that—
 - (i) constitutes a risk to the agricultural industry of Saint Lucia, and
 - (ii) the entry of which is prohibited or restricted by the provision of this Act or any order or regulation issued thereunder,

have the power to stop, and without warrant, to search and examine the person, receptacle or carrier and seize, detain, treat, destroy or otherwise dispose of such planting material, fruit, vegetable, plant product, plant pest, soil or other article brought into or moving within Saint Lucia in violation of this Act; and

- (b) if he or she has cause to believe that a notifiable plant pest may be present on any land have the power to enter on such land and without warrant to carry out survey and detection programmes as well as to treat, destroy or remove planting material, fruit, vegetable, plant product, plant pest and soil, but he or she shall inform the occupier, if present at the time, of the intention to enter, search, examine, treat, confiscate or destroy such planting material, vegetable, plant product, plant pest or soil.

17. CONTROL OF PLANT PESTS

The Minister may make regulations as he or she may deem necessary to prevent the spread or control of plant pests in Saint Lucia and therein may—

- (a) identify the notifiable pest under consideration;
- (b) determine the land or nursery to be placed under quarantine and advise the occupier or owner in writing accordingly;

- (c) set out the action to be taken by Government and the occupier or owner in order to control the plant pest as well as dispose of the planting material, fruits, vegetables, and plant products on the land or nursery under quarantine; and
- (d) restrict, prohibit or control the cultivation and harvesting of any plant on land or nursery under quarantine.

18. OCCUPIER RESPONSIBILITY

The occupier or owner of any land or nursery on which a suspected or identified notifiable pest is found shall, as soon as possible, advise the Minister accordingly.

19. PEST CONTROL NOTICE

Any designated officer may, by notice in writing served upon the occupier or owner of any land or nursery and which describes the measures to be taken to prevent further spread, control or eradicate the notifiable pest under consideration, require the occupier or owner to—

- (a) at his or her own expense and within the time specified in the notice, take such measures as may be recommended or required to prevent the further spread, control or eradicate the notifiable pest; and
- (b) be responsible for the implementation of control or eradication measures even if they are not stipulated in the written notice.

20. FAILURE TO COMPLY WITH NOTICE

Where an occupier or owner fails to take any measure which he or she is required to take by notice issued under section 19, upon expiration of the time specified therein, a designated officer may enter the land or nursery and have implemented the measures to be taken by the occupier or owner of the land or nursery.

21. REIMBURSEMENT OF COSTS

Any expenses incurred by the designated officer in connection with those measures stated in section 19, shall be reimbursed by the

occupier or owner, and may be recovered by the Chief Plant Protection Officer as a civil debt in the manner provided by the Code of Civil Procedure.

22. WAIVING OF EXPENSES

The Minister may waive repayment of expenses incurred under section 20—

- (a) if the person in default is in needy circumstances and is unable to pay; or
- (b) for any other justifiable reason as shall be determined by the Minister and based upon substantiated facts submitted to the Minister in writing.

23. DURATION OF QUARANTINE

The notice served to the occupier or owner of land or a nursery under section 19(b) remains in force until the Minister issues a certificate in writing to the owner or occupier declaring that the land or nursery is no longer under quarantine.

24. REMOVAL OF PLANTS UNDER QUARANTINE

While the notice served under section 19(b) is in force, a person shall not, remove or cause to be removed any planting material, fruit, vegetable, plant product or soil from the land or nursery under quarantine unless he or she is authorized in writing by the Minister to remove the planting material, fruit, vegetable, plant product or soil from the land under quarantine.

25. DETERMINATION OF ERADICATION

The Minister shall determine if any notifiable pest has been eradicated and any inspections of land or nurseries to determine this shall be carried out by an authorised officer at no cost to the occupier or owner.

26. SERVICE OF NOTICE IN ABSENCE OF OCCUPIER

Where no person is in actual occupation of any land or where the occupier or owner cannot be located, service of any notice under this

Act shall be made by affixing the notice in a conspicuous place on the land and such affixing shall be deemed to be good and sufficient notice.

27. COMPENSATION

The Minister shall compensate, out of moneys voted for that purpose by Parliament, occupiers and owners of land and nurseries whose plants, planting material, fruits, vegetables and food products have been destroyed in order to achieve eradication or prevent the spread of an identifiable pest.

28. PLANT PROTECTION BOARD

- (1) The Minister shall appoint a Protection Board hereinafter referred to as “the Board”.
- (2) The Board shall consist of the following members—
 - (a) the Chief Plant Protection Officer who shall serve as Chairperson of the Board;
 - (b) an entomologist and a plant pathologist attached to the Plant Protection Unit of the Ministry;
 - (c) the officer in charge of the plant quarantine service who shall serve as Board Secretary;
 - (d) a senior extension officer of the Ministry;
 - (e) a Government legal officer nominated by the Attorney General; and
 - (f) the Chief Forestry Officer.

29. APPOINTMENT OF ALTERNATIVES

Where a member of the Board is unable to serve, the Minister may appoint an alternate to the Board who shall serve in his or her stead.

30. BOARD DUTIES

The duties of the Board are to advise the Minister on all matters covered under this Act and in particular to advise on—

- (a) making orders or regulations authorised under this Act;
- (b) the declaration of any plant pest as a notifiable plant pest;

- (c) the status of planting material, fruits, vegetables, plant products, plant pests and soil that are being offered or may be offered for importation; and
- (d) the management, operation and physical requirements of the plant quarantine service.

31. BOARD MEETINGS

- (1) Meetings of the Board may be convened at such times as may be necessary or expedient for the efficient performance of the functions of the Board and as the Chairperson may direct.
- (2) Five members constitute a quorum at meetings of the Board.
- (3) When the Chairperson or his or her alternate is unable to preside, the members forming a quorum may elect a Chairperson from among their number to preside over that meeting.
- (4) The decisions of the Board are by a majority of votes of the members present and in case of equality of votes the person presiding has a second or casting vote.

32. ADVISERS TO BOARD

- (1) The Board may co-opt any one or more persons to attend Board meetings for the purpose of assisting or advising the Board.
- (2) A person appointed under subsection (1) has no right to vote.

33. DURATION OF APPOINTMENT TO BOARD

A member of the Board appointed under sections 28 and 29 may—

- (a) hold office for the period specified in his or her instrument of appointment;
- (b) be re-appointed; and
- (c) resign from his or her office by submitting one month's notice in writing to the Secretary of the Board.

34. PENALTIES

Any person who—

- (a) violates any provision of this Act;
- (b) alters, forges, counterfeits, defaces or destroys any document or certificate provided for in this Act; or
- (c) obstructs, impedes, assaults or causes bodily harm to any person in the execution of his or her duties under this Act, commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

35. REPORTING OBLIGATION

Any designated officer is obliged to inform the Chief Plant Quarantine Officer of any violation of this Act that in his or her opinion may damage or destroy the flora and fauna of Saint Lucia.

36. REGULATIONS

The Minister may, by statutory instrument make rules and regulations or issue any order as may be necessary for carrying out the provision of this Act.