

## THE PLANT HEALTH ACT, 2025

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GOVERNMENT OF ZAMBIA

**ACT**

**No. 1 of 2025**

Date of Assent: 8th April, 2025

**An Act to protect plant resources; provide the functions of the Plant Quarantine and Phytosanitary Service Department; provide for the registration of pest controllers and plant related structures; regulate imports and exports to prevent the introduction or spread of a pest; give effect to the International Plant Protection Convention established in 1952; repeal the Plant Pests and Diseases Act, 1958; and provide for matters connected with, or incidental to, the foregoing.**

[15th April, 2025

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Plant Health Act 2025, and shall come into operation on the date appointed by the Minister, by statutory instrument.

Short title  
and  
commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“area of low pest prevalence” means an area in the Republic in which a specific pest occurs at low levels and which is subject to surveillance, control or eradication measures;

“article” means a storage place, packaging, container, soil and organism, object or material capable of harbouring a pest;

	<p>“beneficial organism” means an organism, fungi, bacteria, virus, virus-like organism and invertebrate or other animal which is declared by the Minister to be beneficial to flora or agricultural production;</p> <p>“certificate of registration” means a certificate of registration issued under sections 7 and 9;</p> <p>“Civil Service Commission” means the Civil Service Commission established by the Constitution;</p>
Cap. 1	<p>“Commission on Phytosanitary Measures” means the Commission on Phytosanitary Measures established under Article XI of the International Plant Protection Convention;</p>
Cap.321	<p>“Commissioner-General” means the person appointed as Commissioner-General under the Zambia Revenue Authority Act;</p> <p>“competent plant health authority” means an official entity, agency, department or organisation established in a country to discharge the functions specified by the law governing phytosanitary measures in that country;</p> <p>“compliance audit” means a systematic review and evaluation conducted by the Department of a pest controller or plant related structure’s adherence to the provisions of this Act, guidelines, standards and policies;</p> <p>“consignment” means a quantity of plants, plant products or articles moved from one country to another;</p> <p>“contain” means to apply phytosanitary measures in and around an infested area to prevent the spread of a pest;</p> <p>“container” means a box, bag or receptacle used for the purpose of transporting a plant, plant product or article;</p> <p>“control” means to suppress, contain or eradicate a pest population;</p> <p>“conveyance” means a vessel, aircraft, train, vehicle, cart, container, animal or anything capable of conveying a plant, plant product, pest, beneficial organism or article from one place to another;</p> <p>“country of origin” means a country where a plant, plant product or article originates from;</p>
Cap.322	<p>“customs officer” means a person appointed by the Commissioner-General, or declared by the Commissioner-General to be an officer, for the purposes of the Customs and Excise Act, whether at the time of appointment or otherwise;</p>

“Department” means the Plant Quarantine and Phytosanitary Service Department referred to under section 3;

“detain” means to keep a consignment in custody for phytosanitary purposes, and the word “detention” shall be construed accordingly;

“Director” means the person appointed as Director under section 4;

“entry” means the movement of a pest into an area where it is not yet present, or is present but not widely distributed, and is being officially controlled;

“eradicate” means to apply phytosanitary measures to eliminate a pest from an area or in relation to any noxious weed, to dig up and burn, or employ any other method of destruction which may be authorised either generally or specifically by the Director, and the word “eradication” shall be construed accordingly;

“establishment” means the perpetuation, for the foreseeable future, of a pest within an area after entry;

“exporter” means a person who is an owner, consignor, agent, broker or otherwise is in possession, or entitled to the custody, of a plant, plant product, pest, beneficial organism or article to be conveyed from the Republic to another country;

“germplasm” means a plant intended for use in a breeding or conservation program;

“grower” means a person that grows a particular type of crop;

“immigration officer” has the meaning assigned to the words in the Immigration and Deportation Act, 2010;

Act No. 18  
of 2010

“importer” means a person who is an owner, consignee, agent, broker or otherwise is in possession, or entitled to the custody or control, of a plant, plant product, pest, beneficial organism or article landed or likely to be landed in the Republic from another country;

“infested” means infested or affected with a pest and the word “infestation” shall be construed accordingly;

“inspection” means the visual examination of a plant, plant product or article to determine if a pest is present or to determine compliance with phytosanitary measures;

“inspector” means a person appointed as inspector under section 4;

Cap. 1

“introduction” means the entry of a pest resulting in its establishment in the Republic;

“invasive alien species” means species introduced intentionally or unintentionally outside their natural habitats into an area where they have the ability to establish themselves, overcome native species and affect the environment;

“law enforcement officer” means a police officer or an immigration officer;

“local authority” has the meaning assigned to the words in the Constitution;

“nursery stock” means plants grown or cultivated for the purposes of trade, and with the intention of the plants being sold or distributed for the purpose of the plants being grown elsewhere other than on the land or premises on which they stand, but does not include vegetables, annuals, herbaceous plants or ferns;

“occupier” means in relation to land or premises, a person who has ownership or is in occupation of the land or premises;

“outbreak” means a violent increase in a pest population;

“owner” includes a person having possession, custody or control of a plant, plant product, article, land, premises, area or conveyance;

“pack house for agricultural produce” means a specialised structure or facility designed as separate unit for phytosanitary purpose to prepare and package agricultural produce for exports;

“pest” means a species, strain or biotype of plant, animal or pathogenic agent injurious to a plant or plant product;

“pest controller” means a person who is trained in pest control by the Department and registered under this Act to prevent, manage and control a pest that affects a plant, plant product or other environment using regulated pest control techniques;

“pest free area” means an area declared under section 36 in which a specific pest does not occur as demonstrated by scientific evidence and where appropriate, the non-occurrence of a specific pest in the area is being officially maintained;

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



“phytosanitary certificate” means a phytosanitary certificate issued by the Director under section 22;

“phytosanitary diagnostic service” means an examination test or procedure performed to detect or to monitor a pest;

“phytosanitary emergency” means an emergency declared under section 40;

“phytosanitary measure” means any legislation implemented to prevent an introduction or spread of a quarantine pest, or to limit the economic impact of a non-quarantine pest;

“plant” means any living plant and any part thereof, a seed or germplasm;

“plant import permit” means a plant import permit issued by the Director under section 13;

“plant nursery” means a specialised facility or area dedicated to the propagation, growing or selling of a plant, tree or other horticultural products;

“plant product” means a grain or unmanufactured material of plant origin or any manufactured product which may create a risk to the introduction or spread of a pest;

“plant related structure” means a plant related structure referred to under section 8(1);

“plant quarantine station” means a place where a plant, plant product or article may be kept for phytosanitary observation, research, inspection, testing, treatment detention or destruction;

“port of entry” has the meaning assigned to the words in the Immigration and Deportation Act, 2010;

Act No.18 of  
2010

“pre-clearance” means phytosanitary certification or clearance in an exporting country, performed by or under the supervision of a competent plant health authority;

“premises” has the meaning assigned to the word in the Public Health Act;

Cap. 295

“production site for an agricultural crop” means a place, or part of a place of production of an agricultural crop, that is managed as a unit for phytosanitary purposes;

“quarantine” means a restriction where the production, movement or existence of a plant, plant product or article, or the normal activity of persons is brought under regulation in order that the introduction or spread of a pest

may be prevented or limited, or where the pest is already introduced, it may be controlled or eradicated;

“quarantine pest” means a pest of potential economic importance to the area endangered thereby and not yet present in the area, or present but not widely distributed and being officially controlled;

“regulated non-quarantine pest” means a non-quarantine pest whose presence in a plant, plant product or article affects the intended use of that plant, plant product or article with an economically unacceptable impact, and which is, therefore, regulated within the territory of an importing country;

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

“regulated phytosanitary techniques” means methods and practices used to prevent, manage, or eradicate a plant pest, regulated and monitored by the Department to ensure phytosanitary compliance, plant health environmental sustainability and human safety;

“soil” means material wholly or partly derived from the upper layer of the earth’s crust which is capable of sustaining plant life and which contains solid organic substances but excludes any medium which is sterile, composed entirely of unused peat or otherwise incapable of harbouring or transmitting a pest;

“surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;

“treatment” means an officially authorised procedure for the killing or removal of a pest or rendering a pest infertile;

“ware house for an agricultural commodity” means a building, structure or enclosure in which an agricultural commodity is stored, handled or shipped, and includes a facility used in connection with the operation of the warehouse; and

“wood packaging material treatment facility” means a specialised plant or installation that treats wood packaging materials which include pallets, crates, or dunnage to ensure compliance with phytosanitary standards.

## PART II

## THE PLANT QUARANTINE AND PHYTOSANITARY SERVICE DEPARTMENT

3. (1) The Plant Quarantine and Phytosanitary Service Department in the ministry responsible for agriculture is responsible for the administration of this Act under the general direction of the Permanent Secretary of the Ministry responsible for agriculture.

Plant  
Quarantine  
and  
Phytosanitary  
Service  
Department

(2) Despite the generality of subsection (1), the functions of the Department are to—

- (a) protect a plant, plant product or article;
- (b) prevent the introduction of, and to control the spread of, a pest;
- (c) register a pest controller;
- (d) register a plant related structure in accordance with Part IV of this Act;
- (e) regulate a laboratory that intends to carry out a phytosanitary diagnostic service;
- (f) formulate and implement phytosanitary measures to prevent the introduction, establishment and spread of a pest;
- (g) regulate the import, export and transit of a plant, plant product or article;
- (h) regulate the movement of a plant, plant product or article within the Republic, where the Department is aware or becomes aware of a regulated pest within a particular land, premises or area;
- (i) develop compliance procedures for a plant, plant product or article for the purposes of phytosanitary certification and market access;
- (j) undertake surveillance of a growing plant, an area under cultivation, wild flora, a plant or plant product in storage or transit suspected to host a pest in order to determine the occurrence, outbreak or spread of a pest;
- (k) conduct inspections of a plant, plant product and article to reduce the risk of the introduction or the spread of a pest;
- (l) where applicable, treat a consignment of a plant, plant product and article considered to be a pathway or host for a pest;

- (m) protect an endangered area prone to pest infestation;
- (n) designate, maintain and survey pest free areas and areas of low pest prevalence;
- (o) develop pest diagnostic, investigative and analytical capabilities and establish a laboratory and quarantine station at a place that the Director may designate;
- (p) notify the Commission on Phytosanitary Measures and a competent plant health authority of the application of a phytosanitary measure;
- (q) on request by another country, provide justification to that country for the application of a phytosanitary measure;
- (r) undertake programmes on phytosanitary matters;
- (s) disseminate information to the public on—
  - (i) pests, their prevention and control; and
  - (ii) the risk, danger and impact on the environment, animal, plant and human health caused by pests;
- (t) conduct continuous professional development training of inspectors and pest controllers on plant health;
- (u) collaborate with Government institutions and other relevant regulatory bodies to deal with a phytosanitary emergency;
- (v) collaborate with national and international institutions or organisations in the prevention, containment and eradication of a pest; and
- (w) advise the Government on matters relating to plant health and mechanisms to improve levels of agricultural productivity in line with phytosanitary requirements at a regional and international level.

Director,  
inspectors  
and other  
staff

4. (1) The Civil Service Commission shall appoint as a public officer, a Director who is responsible for the administration of the functions of the Department.

(2) The Civil Service Commission shall appoint as public officers, inspectors and other staff of the Department that the Civil Service Commission considers necessary for the administration and implementation of this Act.

(3) The Director may, in writing, delegate the exercise of any of the functions conferred on the Director by this Act to an inspector or other staff that the Director considers necessary.

5. Subject to the duties of the Director under this Act, the Director may, in writing, delegate all or any of the powers and duties of an inspector to a customs officer or other authorised person in an area of the Republic.

Delegation of powers and duties of inspectors to customs officer or authorised person

### PART III

#### REGISTRATION OF PEST CONTROLLERS

6. (1) A person shall not be employed or engaged as a pest controller unless that person is registered under this Act.

Prohibition of employment or engagement as pest controller without registration

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

7. (1) A person who intends to be employed or engaged as a pest controller shall apply to the Director in the prescribed manner and form on payment of a prescribed fee.

Application for registration as pest controller

(2) The Director shall, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(3) The Director shall grant an application in accordance with subsection (2) if a person meets the prescribed requirements.

(4) The Director shall, where the Director grants an application in accordance with subsections (2) and (3), issue the applicant with a certificate of registration as a pest controller as prescribed.

(5) The Director shall, where the Director rejects an application under subsection (2), issue the applicant with a notice of rejection in the prescribed form, stating the reasons for the rejection.

(6) An application made under subsection (1) shall, where the Director fails to inform the applicant of the Director's decision on the application within the period specified under subsection (2), be deemed to have been granted.

(7) A certificate of registration issued under this section shall have unlimited validity unless suspended or cancelled under this Act.

(8) The Director shall, in accordance with section 61, conduct a compliance audit on a holder of a certificate of registration issued under this section.

## PART IV

## REGISTRATION OF PLANT RELATED STRUCTURES

Prohibition  
of operating  
plant health  
related  
structure  
without  
registration

8. (1) A person shall not operate the following plant health related structures without a certificate of registration issued under this Part:

- (a) a laboratory for phytosanitary diagnostic service for purposes of phytosanitary certification;
- (b) a production site for an agricultural crop;
- (c) a pack house for agricultural produce;
- (d) a processing facility that exports agricultural commodities;
- (e) a plant nursery;
- (f) a wood packaging material treatment facility; or
- (g) a warehouse for an agricultural commodity.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Registration  
of plant  
related  
structure

9. (1) A person who intends to operate a plant related structure shall apply for registration of that plant related structure to the Director in a prescribed manner and form on payment of a prescribed fee.

(2) The Director shall, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(3) The Director shall, where the Director approves an application under subsection (2), issue the applicant with a certificate of registration as prescribed.

(4) The Director shall issue a certificate of registration in accordance with subsection (3) if the applicant meets the prescribed requirements.

(5) The Director shall, where the Director rejects an application under subsection (2), notify the applicant in the prescribed form, stating the reasons for the rejection.

(6) An application made under subsection (1) shall, where the Director fails to inform the applicant of the Director's decision on the application within the period specified under subsection (2), be deemed to have been granted.

(7) A certificate of registration issued under this section shall have an unlimited period of validity unless suspended or cancelled by the Director under this Act.

(8) The Director shall, in accordance with section 61, conduct a compliance audit on a holder of a certificate of registration issued under this section.

**10.** A registered laboratory shall be adequately equipped to carry out phytosanitary analysis and diagnostic tests for the purposes of safe—

Requirements  
for  
registered  
laboratory

(a) movement of a plant, plant product or article within the Republic; and

(b) transit, import and export of a plant, plant product or article within and outside the Republic.

**11.** (1) An inspector shall inspect a registered plant health related structure to ensure compliance with the conditions of the certificate of registration and this Act.

Inspection  
of plant  
related  
structure

(2) An inspector shall, after an inspection is carried out in accordance with subsection (1), submit a report to the Director.

(3) The Director may, where an inspection is carried out in accordance with subsection (1) and on the basis of the report referred to under subsection (2)—

(a) impose additional conditions that the Director may consider necessary for the enforcement of the requirements of this Act;

(b) vary the conditions of a certificate of registration; or

(c) suspend or cancel a certificate of registration, where the inspection reveals that the registered plant health related structure is being operated contrary to the conditions set out in the certificate of registration or contrary to this Act.

(4) The Director shall, before varying the conditions of a certificate of registration in accordance with subsection (3)(b), notify the holder of the certificate of registration, in writing, of the Director's decision.

## PART V

### IMPORTATION OF A PLANT, PLANT PRODUCT AND ARTICLE

**12.** (1) A person shall not import a plant, plant product or article without a plant import permit issued under this Part and a phytosanitary certificate from the exporting country.

Prohibition of  
importation  
of plant,  
plant product  
or article  
without plant  
import  
permit and  
phytosanitary  
certificate

(2) A phytosanitary certificate referred to under subsection (1) shall be issued by a competent plant health authority from the exporting country.

(3) Despite subsection (1), a plant, plant product or article shall not require a phytosanitary certificate from the exporting

country where the Director is satisfied that the plant, plant product or article has no phytosanitary risk.

Cap. 322

(4) A person who imports a plant, plant product or article shall use a designated port of entry in accordance with the Customs and Excise Act.

(5) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Application  
for plant  
import  
permit

**13.** (1) A person who intends to import a plant, plant product or article into the Republic shall apply to the Director for a plant import permit in a prescribed manner and form on payment of a prescribed fee.

(2) The Director shall, within five days of the receipt of an application under subsection (1), grant or reject the application.

(3) The Director shall not issue a plant import permit in accordance with this section if the—

- (a) applicant fails to meet the prescribed requirements for the grant of a plant import permit;
- (b) grant of a plant import permit would lead to the introduction or spread of a pest;
- (c) applicant has been convicted of an offence under this Act;
- (d) applicant has been convicted of an offence relating to a pest in another country; or
- (e) applicant has had a plant import permit issued in another country previously withdrawn by a competent plant health authority.

(4) The Director shall, where an application is rejected under subsection (2), inform the applicant in the prescribed form, stating the reasons for the rejection.

(5) An application made under subsection (1) shall, where the Director fails to inform an applicant of the Director's decision within the period specified under subsection (2), be deemed to have been granted.

(6) The Director shall, where an application is granted under subsection (2), issue the applicant with a plant import permit in a prescribed form on conditions that the Director may determine.

(7) A plant import permit issued by the Director under this section shall be valid for a period of six months.



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- 14.** (1) Subject to this Act, the Director may suspend or revoke a plant import permit if the holder of a plant import permit—
- Suspension or revocation of plant import permit
- (a) obtained the plant import permit on the basis of fraud, misrepresentation or concealment of a material fact;
  - (b) fails to comply with any phytosanitary measure;
  - (c) fails to comply with a term or condition of the plant import permit;
  - (d) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine; or
  - (e) contravenes a provision of this Act or any other relevant written law.
- (2) The Director shall, not less than thirty days before suspending or revoking a plant import permit, notify the holder of a plant import permit in a prescribed manner and form of the intention to suspend or revoke the plant import permit and—
- (a) give reasons for the intended suspension or revocation; or
  - (b) require the holder of a plant import permit to show cause within a period specified in the notice, why the plant import permit should not be suspended or revoked.
- (3) The Director shall not suspend or revoke a plant import permit under this section if the holder of a plant import permit takes remedial measures to the satisfaction of the Director within the period referred to under subsection (2).
- (4) The Director shall, in making the final determination on the suspension or revocation of a plant import permit, consider the submissions made by the holder of a plant import permit under subsection (2).
- (5) The Director may suspend or revoke a plant import permit in a prescribed manner and form if the holder of a plant import permit after being notified under subsection (2) fails to show cause or does not take any remedial measures, to the satisfaction of the Director, within the period referred to under that subsection.
- (6) Despite subsection (1) to (5), the Director may revoke a plant import permit in a prescribed manner and form where a phytosanitary emergency exists in accordance with section 40.
- (7) The Director may, before revoking a plant import permit, suspend the plant import permit on terms and conditions that the Director may determine.

Obligation of  
owner,  
master,  
passenger,  
captain or  
agent of  
conveyance

(8) A holder of a plant import permit whose plant import permit is revoked shall, within seven days of being notified of the revocation, surrender the plant import permit to the Department.

**15.** (1) An owner, master, captain or agent of a conveyance shall, on arrival at a port of entry or airport, as the case may be—

(a) provide an inspector with such documents and other relevant information in that owner, master, captain or agent's possession or control concerning the conveyance's contents as the inspector may require for the purposes of this Act;

(b) complete a declaration concerning the conveyance and its contents as the inspector may require;

(c) prevent a plant, plant product or article from landing from the conveyance unless otherwise permitted by the inspector; and

(d) prevent the discharge of an organism from the conveyance into the water or shoreline that is injurious to a plant, plant product or article in the Republic.

(2) A passenger on a conveyance in possession of a plant, plant product or article shall, on arrival, complete a written declaration in such form and manner as may be prescribed.

(3) An inspector may, where the inspector has reasonable grounds to believe that a conveyance is carrying an infested plant, plant product or article, by order, in writing, served on the owner, master, captain or agent of a conveyance—

(a) deny the entry of the plant, plant product or article; or

(b) order that the plant, plant product or article be—

(i) sent back to the country of origin;

(ii) quarantined; or

(iii) treated or destroyed in a specified manner.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(5) A person who makes a false declaration or refuses to make a declaration in accordance with this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

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- 16.** (1) A customs officer or other relevant officer at a port of entry shall notify an inspector of the importation of a plant, plant product or article. Duty of customs officer or other relevant officer
- (2) A customs officer or other relevant officer shall, where that customs officer or other officer makes a notification under subsection (1)
- (a) detain the plant, plant product or article until an inspector takes custody of that plant, plant product or article; and
- (b) give notice of the detention to the importer.
- (3) A detention carried out under subsection (2) shall be considered to be an action taken on delegation from the Director.
- (4) The Director shall take custody of a plant, plant product or article detained under subsection (2) within three days of the detention.
- 17.** The Minister may, on the recommendation of the Director, authorise, in writing, the entry of a plant, plant product or article into the Republic for scientific or research purposes, subject to terms and conditions that the Minister may consider appropriate. Importation for scientific or research purposes
- 18.** (1) An inspector shall seize and detain a plant, plant product or article on giving written notice to an importer, where an imported plant, plant product or article— Seizure, detention and destruction of infested imported consignment
- (a) fails to meet the phytosanitary measures at a port of entry, in accordance with this Act; or
- (b) is infested with a pest or presents a risk for the introduction or spread of a pest.
- (2) An inspector may, where the inspector detains a consignment under subsection (1), order the importer to—
- (a) treat the consignment in a manner that the inspector may consider appropriate to remove the risk;
- (b) return the consignment to the country of origin; or
- (c) take the consignment into quarantine to a quarantine area or another area that the inspector may determine.
- (3) An inspector may, on giving notice to the importer, destroy, without compensation, an imported plant, plant product or article
- (a) which on inspection is found to be infected with a quarantine pest;
- (b) where the pest is of immediate or potential danger to the environment, or plant, animal or human health;

(c) where any disinfection is impracticable or would not be a complete safeguard; or

(d) where the delay caused by disinfection would result in the risk of the introduction or spread of a pest.

(4) An inspector may waive the giving of a notice required under subsection (3) where the inspector determines that the destruction of the imported plant, plant product or article is urgently required to prevent harm to the environment, plant, animal or human health, and the giving of the notice would be impracticable.

Prohibition,  
restriction  
and  
regulation of  
import of  
plant, plant  
product or  
article

**19.** (1) The Minister may, on the recommendation of the Director, by statutory instrument, provide for the prohibition, restriction and regulation of the importation of a plant, plant product or article into the Republic.

(2) Despite the generality of subsection (1), the Minister may by regulation—

(a) provide for the disinfection, fumigation or treatment of any imported plant, plant product or article, or their containers;

(b) designate a port of entry, routes and methods of transport for the plant, plant product or article;

(c) provide for the detention of an imported plant, plant product or article and the measures to be taken during the detention;

(d) provide for the disposal of an imported plant, plant product or article in respect of which prescribed fees are not paid, and of the proceeds resulting from their disposal; and

(e) provide for the declaration of beneficial organisms.

Costs for  
treatment,  
removal and  
destruction  
of infected  
imported  
consignment

**20.** (1) The costs and responsibility for the destruction, re-exportation, treatment or any action taken under this Part shall be borne by the importer.

(2) A plant, plant product or article shall, where an importer does not pay for a cost or fee for inspection, treatment or other measure required under this Act, be forfeited to the State and disposed of as the court may determine.

(3) The costs charged for the purposes of this section shall be paid in a prescribed manner.

(4) The Director shall not bear any liability for the destruction or disposal of a plant, plant product or article imported in contravention of this Act.

## PART VI

EXPORTATION OR RE-EXPORTATION OF PLANT, PLANT PRODUCT OR  
ARTICLE

21. (1) Subject to any other written law, a person shall not export or re-export a plant, a plant product or article from the Republic without a phytosanitary certificate issued under this Part.

Prohibition  
of export or  
re-export of  
plant, plant  
product or  
article  
without  
phytosanitary  
certificate

(2) A plant, plant product or article shall be inspected at its place of origin or an appropriate place as an inspector may permit before it can be exported or re-exported from the Republic.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

22. (1) A person who intends to export or re-export a plant, plant product or article from the Republic shall apply to the Director for a phytosanitary certificate in a prescribed manner and form on payment of a prescribed fee.

Application  
for  
phytosanitary  
certificate

(2) The Director shall, within three days of receipt of an application under subsection (1), grant or reject the application.

(3) The Director shall not issue a phytosanitary certificate under this section if—

- (a) the applicant fails to meet the prescribed requirements for the grant of a phytosanitary certificate;
- (b) the grant of a phytosanitary certificate would lead to the introduction or spread of a pest;
- (c) the applicant has been convicted of an offence under this Act; or
- (d) the applicant has been convicted of an offence relating to a pest in another country.

(4) The Director shall, where the Director grants an application under subsection (2), issue the applicant with a phytosanitary certificate in a prescribed form on conditions that the Director may determine.

(5) The Director shall, where the Director rejects an application under subsection (2), notify the applicant in the prescribed form, stating the reasons for the rejection.

(6) An application made under subsection (1) shall, where the Director fails to inform an applicant of the Director's decision within the period specified under subsection (2), be deemed to have been granted.

(7) A phytosanitary certificate issued by the Director under this section shall be valid for a period of thirty days or for a period that the Director may determine depending on the risk profile of the plant, plant product or article.

Suspension  
or  
revocation of  
phytosanitary  
certificate

**23.** (1) Subject to this Act, the Director may suspend or revoke a phytosanitary certificate if the holder of a phytosanitary certificate—

- (a) obtained the phytosanitary certificate on the basis of fraud, misrepresentation or concealment of a material fact;
- (b) has ceased to carry on business as an exporter of a plant, plant product or article;
- (c) fails to comply with any phytosanitary measure;
- (d) fails to comply with a term or condition of the phytosanitary certificate;
- (e) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine; or
- (f) contravenes a provision of this Act or any other relevant written law.

(2) The Director shall, not less than thirty days before suspending or revoking a phytosanitary certificate, notify the holder of a phytosanitary certificate in a prescribed manner and form of the intention to suspend or revoke the phytosanitary certificate and—

- (i) give reasons for the intended suspension or revocation; or
- (ii) require the holder of a phytosanitary certificate to show cause within a period specified in the notice, why the phytosanitary certificate should not be suspended or revoked.

(3) The Director shall not suspend or revoke a phytosanitary certificate under this section if the holder of a phytosanitary certificate takes remedial measures to the satisfaction of the Director within the period referred to under subsection (2).

(4) The Director shall, in making its final determination on the suspension or revocation of a phytosanitary certificate, consider the submissions made by the holder of a phytosanitary certificate under subsection (2).

(5) The Director may suspend or revoke a phytosanitary certificate in a prescribed manner and form if the holder of a phytosanitary certificate after being notified under subsection (2)

fails to show cause or does not take any remedial measures, to the satisfaction of the Director, within the period referred to under that subsection.

(6) The Director may, before revoking a phytosanitary certificate, suspend the phytosanitary certificate on terms and conditions that the Director may determine.

(7) A holder of a phytosanitary certificate whose phytosanitary certificate is revoked shall, within two days of being notified of the revocation, surrender the phytosanitary certificate to the Department.

**24.** (1) The Director shall, where an importing country notifies the Director, in writing, of the need to carry out a pre-clearance inspection prior to the export or re-export of a plant, plant product or article from the Republic, facilitate the pre clearance inspection of the plant, plant product or article in the Republic to gain market access in an importing country.

Pre-clearance  
of plant,  
plant  
product or  
article to be  
exported

(2) The Director shall, prior to the export or re-export of a plant, a plant product or article, remedy any concerns raised by the importing country from an inspection carried out under this section.

## PART VII

### TRANSIT OF PLANT, PLANT PRODUCTS OR ARTICLE

**25.** (1) A person shall not transit a plant, plant product or article through the Republic without a transit permit issued under this part.

Prohibition  
of transit of  
plant, plant  
product or  
article  
without  
transit  
permit  
Cap. 322

(2) A person who transits a plant, plant product or article through the Republic shall use a designated port of entry in accordance with the Customs and Excise Act.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

**26.** (1) A person who intends to transit a plant, plant product or article through the Republic shall apply to the Director for a transit permit in a prescribed manner and form on payment of a prescribed fee.

Application  
for transit  
permit

(2) The Director shall, within five days of the receipt of an application under subsection (1), grant or reject the application.

(3) The Director shall not issue a transit permit in accordance with this section if the—

- (a) applicant fails to meet the prescribed requirements for the grant of a transit permit;
- (b) grant of a transit permit would lead to the introduction or spread of a pest;
- (c) applicant has been convicted of an offence under this Act;
- (d) applicant has been convicted of an offence relating to a pest in another country; or
- (e) applicant has had a transit permit issued in another country previously withdrawn by a competent plant health authority.

(4) The Director shall, where an application is granted under subsection (2), inform the applicant in the prescribed form, stating the reason for the rejection.

(5) The Director shall, where an application is granted under subsection (2), issue the applicant with a transit permit in a prescribed form on conditions that the Director may determine.

(6) An application made under subsection (1) shall, where the Director fails to inform an applicant of the Director's decision within the period specified under subsection (2), be deemed to have been granted.

(7) A transit permit issued by the Director under this section shall be valid for a period of fourteen days or a period that the Director may determine.

Suspension  
or revocation  
of transit  
permit

**27.** (1) Subject to this Act, the Director may suspend or revoke a transit permit if the holder of a transit permit—

- (a) obtained the transit permit on the basis of fraud, misrepresentation or concealment of a material fact;
- (b) fails to comply with any phytosanitary measure;
- (c) fails to comply with a term or condition of the transit permit
- (d) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine; or
- (e) contravenes a provision of this Act or any other relevant written law.

(2) The Director shall, not less than thirty days before suspending or revoking a transit permit, notify the holder of a transit permit in a prescribed manner and form of the intention to suspend or revoke the transit permit and—



(a) give reasons for the intended suspension or revocation;  
or

(b) require the holder of a transit permit to show cause within a period specified in the notice, why the transit permit should not be suspended or revoked.

(3) The Director shall not suspend or revoke a transit permit under this section if the holder of a transit permit under this section if the holder of a transit permit takes remedial measures to the satisfaction of the Director within the period referred to under subsection (2).

(4) The Director shall, in making its final determination on the suspension or revocation of a transit permit, consider the submissions made by the holder of a transit permit under subsection (2).

(5) The Director may suspend or revoke a transit permit in a prescribed manner and form if the holder of a transit permit after being notified under subsection (2) fails to show cause or does not take any remedial measures, to the satisfaction of the Director, within the period referred to under that subsection.

(6) The Director may, before revoking a transit permit, suspend the transit permit on terms and conditions that the Director may determine.

(7) A holder of a transit permit whose transit permit is revoked shall, within seven days of being notified of the revocation, surrender the transit permit to the Department.

## PART VIII

### CONTAINMENT AND ERADICATION OF PESTS

**28.** (1) An owner or occupier of any land, premises or area, or a local authority in whose area the land, premises or area is situated shall, where a quarantine pest is present or is suspected to be present on the land, premises or area, immediately notify the Director.

Notification  
of presence  
of pest by  
owner or  
occupier of  
premises or  
local  
authority

(2) The Director shall, on receipt of a notice under subsection (1), cause the land, premises or area to be inspected so as to determine the presence of a quarantine pest.

**29.** (1) The Minister may, on the recommendation of the Director, declare by Gazette Notice any land, premises or area that is infested or is suspected to be infested with a quarantine pest, to be a quarantine land, premises or area for a period that the Minister shall determine.

Declaration  
of quarantine  
land,  
premises or  
area

(2) The Director shall, in writing, notify the owner or occupier of the land, premises or area declared as a quarantine land, premises or area, or any other interested person of a declaration made under subsection (1).

(3) Where any land, premises or area is declared as a quarantine land, premises or area under subsection (1), the Minister shall on the recommendation of the Director —

- (a) prescribe measures for the treatment or disposal of any plant, plant product or article on the land, premises or area;
- (b) order the treatment of any conveyance on the land, premises or area, whether infested or not;
- (c) order the taking of any other measure to eradicate the quarantine pest;
- (d) prohibit the movement of a conveyance, plant, plant product or article from or to the land, premises or area; or
- (e) prohibit any planting or replanting of the host crop on the land, premises or area.

Designation  
of plant  
quarantine  
station

**30.** (1) The Director may designate a place as a plant quarantine station.

(2) The Director may require any imported material to be kept or cultivated at a plant quarantine station or at any other location identified by the Department, on conditions that the Director may determine.

Declaration  
of infested  
land,  
premises or  
area

**31.** (1) The Minister may, on the recommendation of the Director, declare by *Gazette* Notice any land, premises or area in which a quarantine pest is situated as an infested land, premises or area for a period that the Minister shall determine.

(2) The Director shall, in writing, notify the owner or occupier of a land, premises or area declared as an infested land, premises or area, or any other interested person of a declaration made under subsection (1).

(3) An inspector may, where any land, premises or area is declared an infested land, premises or area under subsection (1)—

- (a) enter the land, premises or area for the purposes of inspection or taking of samples that the inspector may consider necessary to contain or eradicate the quarantine pest;
- (b) prohibit the removal of any compost, soil, manure, plant or anything capable of spreading a quarantine pest

from the land, premises or area for a period that the inspector shall determine, in consultation with the Director; and

- (c) in writing, order the owner or occupier of any land, premises or area, or a local authority in whose area the land, premises or area is situated, to take measures as are reasonably necessary to eradicate, contain or restrict the spread of a quarantine pest, within a period determined by the inspector, in consultation with the Director.

(4) An inspector shall submit a report to the Director on the findings of an inspection conducted under this section.

**32.** (1) An owner or occupier of any land, premises or area shall take measures that may be prescribed and are reasonably necessary for the eradication or prevention of the spread of a pest as an inspector may by notice, in writing, order the owner or occupier to take under this Act.

Duty of owner to eradicate pest

(2) An inspector may, where an owner or occupier of any land, premises or area fails to comply with the prescribed measures and take the necessary measures in accordance with an order made by an inspector under subsection (1), issue a compliance order in accordance with section 58.

(3) Despite subsection (1), an inspector shall, where an inspector is satisfied that the measures referred to under this section must be taken as soon as practicable, cause the measures to be taken immediately without giving a notice to the owner or occupier of the land, premises or area infested by a pest.

**33.** (1) An inspector may seize and detain a plant, plant product or article removed from an infested or quarantine land, premises or area.

Seizure and detention of plant, plant product or article from infested or quarantine land, premises or area

(2) Nothing in this section shall preclude the prosecution of a person responsible for the illegal removal of a plant, plant product or article under subsection (1).

**34.** (1) The Director may, without compensation, order the destruction of any plant, plant product or article removed from an infested or quarantine land, premises or area.

Destruction of plant from infested or quarantine land, premises or area

(2) An inspector may order the destruction of a plant, plant product or article in accordance with subsection (1) where—

- (a) the land, premises or area is infested with a regulated pest of immediate or potential danger to the environment, or plant, animal or human health;

	<p>(b) disinfection is impracticable or shall not be a complete safeguard; or</p> <p>(c) the delay caused by disinfection would give rise to the risk of the introduction or spread of a regulated pest.</p>
Lifting of declaration of quarantine	<p><b>35.</b> (1) The Minister shall, on the recommendation of the Director, lift a declaration of a quarantine land, premises or area in accordance with section 29, where the Minister considers that the quarantine pest is eradicated or wide spread.</p> <p>(2) The Director shall, in writing, notify the owner or occupier of a quarantine land, premises or area, or a local authority of a quarantine land, premises or area, where the declaration as a quarantine land, premises or area is lifted in accordance with subsection (1).</p>
Declaration of pest free land, premises or area	<p><b>36.</b> (1) The Minister may, on the recommendation of the Director, declare by <i>Gazette</i> Notice a land, premises or area where the Director—</p> <p>(a) determines that a regulated pest is not present in the land, premises or area; and</p> <p>(b) institutes prescribed phytosanitary measures to keep the land, premises or area free of a regulated pest.</p> <p>(2) Despite subsection (1), the Minister may, on the recommendation of the Director, provide for the restriction and regulation of the removal and movement of a plant, plant product or article to and from any land, premises or area declared as a pest free area under subsection (1).</p>
Declaration of low pest prevalence area	<p><b>37.</b> The Minister may, on the recommendation of the Director, declare by <i>Gazette</i> Notice an area as a low pest prevalence area, where the Director—</p> <p>(a) determines that a pest occurs at low levels in that area; and</p> <p>(b) adopts prescribed phytosanitary measures to keep the regulated pest levels low in that area.</p>
Prevention of introduction of invasive alien species	<p><b>38.</b> The Minister may, for the purposes of preventing the introduction of invasive alien species into the Republic and on the recommendation of the Director, prescribe import conditions and other control and management measures on a plant import permit as is considered necessary for the risk posed by the importation of a plant, plant product or article.</p>
Regulatory powers to eradicate pest	<p><b>39.</b> (1) The Minister may, on the recommendation of the Director, by statutory instrument, provide for the eradication of a regulated pest, or the prevention or control of the spread of a regulated pest.</p>

(2) Despite the generality of subsection (1), the regulations made under that subsection may provide for the—

- (a) disinfection, treatment, destruction or disposal of a plant, plant product or article infected or appearing to be infected with a regulated pest;
- (b) prohibition or restriction of the movement of a plant, plant product or article that is infested with a regulated pest;
- (c) prohibition or restriction of the cultivation and harvesting of a host plant where a regulated pest cannot be controlled or eradicated;
- (d) reporting procedures of the occurrence of a regulated pest, and the collection and transmission of specimens of a regulated pest;
- (e) adoption of methods of planting, cleaning, cultivating and harvesting, and any precautions and measures to be taken by an owner or occupier of land, premises or area for the purpose of preventing or controlling the invasion or spread of a regulated pest;
- (f) destruction after harvest of a plant by a specified date;
- (g) registration and inspection of a plant nursery and the imposition of fees;
- (h) regulation of the sale or removal of a plant from a plant nursery and the prohibition of the sale or exposure for sale of plant nursery stock not grown in a registered plant nursery;
- (i) disinfection, fumigation and treatment of land, premises or area suspected of being or having been used for the storage of anything likely to infest a plant, plant product or article with a regulated pest;
- (j) inspection, disinfection or fumigation of a conveyance suspected of harbouring a regulated pest; or
- (k) payment and recovery of fees for an inspection, disinfection, fumigation or treatment carried out by an inspector.

**40.** (1) The Minister may, on the recommendation of the Director, declare a phytosanitary emergency by statutory instrument, where—

Declaration  
of  
phytosanitary  
emergency

- (a) an introduced pest is capable of rapid spread;
- (b) the presence, impact and extent of the infection of a pest, the potential for spread and pest's rate of spread requires emergency eradication measures to eliminate the pest;

- (c) a pest is of immediate or potential danger to the environment, or plant, animal or human health; or
  - (d) a quarantine pest is detected in any area in the Republic.
- (2) The Director may, where the Minister declares a phytosanitary emergency under subsection (1), by statutory instrument—
- (a) designate an endangered area subject to quarantine control;
  - (b) in the case of an area where a quarantine pest is detected—
    - (i) prohibit or restrict the entry or removal of a plant, plant product or article from that area;
    - (ii) specify the activities to be carried out in that area;
    - (iii) restrict the movement of persons, vehicles and goods to and from that area;
    - (iv) destroy a plant, plant product or article in that area; or
  - (c) take any other action that the Director considers appropriate to prevent the introduction or spread of a pest.

## PART IX

## INSPECTORATE

- Inspectors **41.** (1) An inspector shall ensure compliance with this Act.
- (2) An inspector shall be provided with an identification card which shall be *prima facie* evidence of the inspector's appointment.
- (3) An inspector shall, in performing a function under this Act—
- (a) be in possession of the identification card referred to under subsection (2);
  - (b) show the identification card to any person who requests to see the identification card or is subject of an inspection or investigation under this Act; and
  - (c) wear a prescribed uniform in accordance with the Protection of Names, Uniforms and Badges Act.
- Cap. 314 **42.** (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice—
- Powers of inspectors (a) enter and inspect any land, premises or area in which the inspector has reasonable grounds to believe that a pest

or any infested plant, plant product or article may be found, or in which an activity likely to introduce a pest or contribute to the spread of a pest is being carried out;

- (b) inspect a plant under cultivation, in storage or in transit and, for the purpose of detecting a pest, expose the foots of the plant, remove the bark, or cut a plant or the fruit, flower or other part of a plant;
- (c) open and examine a container, conveyance, package or wrapping reasonably suspected to contain a pest or plant likely to harbour a pest;
- (d) inspect a consignment of plants, plant products or articles imported or exported from the Republic to determine whether the consignment is infested with a pest;
- (e) inspect and examine a conveyance where the inspector has reasonable grounds to believe that a pest, or plant infested with a pest, is being or has been transported;
- (f) search a person who the inspector has reasonable grounds to believe is carrying out an activity in contravention of this Act;
- (g) search luggage which the inspector has reasonable grounds to believe is hosting a pest;
- (h) inspect and examine any cargo, mail, baggage or bill of lading on a conveyance that an inspector has reasonable grounds to believe is carrying a plant, plant product or article;
- (i) order the adoption and application of measures which are reasonably necessary or prescribed for the eradication or prevention of the spread of a pest;
- (j) order the destruction at any time of a plant, plant product or article which is growing on land or premises, or contrary to the provisions of this Act;
- (k) declare a nursery infested with a pest, or part of a nursery infested with a pest, as an infested area until the nursery or part of the nursery is free from the pest;
- (l) inspect any land or premises that the inspector has reasonable cause to believe is being used in the production, storage, grading, processing or sale of a plant, plant product or article in contravention of this Act;
- (m) in the prescribed manner, take samples of a plant, plant product or article growing on any land or premises if in the inspector's opinion, the growing or

harvested plant, plant product or article is not of a prescribed variety and is being or has been grown on that land or premises, or is being held on that land or premises in contravention of this Act; or

(n) inspect equipment and supplies in or about any land, premises or area of a grower and buyer.

(2) A cost incurred for an inspection or other action carried out under subsection (1) shall be borne by the owner of a plant, plant product or article, or an owner or occupier of land, premises, area or conveyance.

(3) An owner or occupier of land or premises, or an owner of a plant, and the owner or occupier's servant or agent shall afford an inspector access to any information, record or document for the purpose of an inspection and produce to the inspector, any information, record or document that the inspector may require for the purposes of carrying out an inspection under this Act.

(4) An inspector may, in the performance of an inspector's functions under this section, be accompanied and assisted by a law enforcement officer.

(5) An inspector who removes anything from any land or premises shall—

(a) issue a receipt for anything removed to the owner or the person in control of the land or premises; and

(b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

(6) An inspector shall detain, treat, dispose of or destroy a non-compliant consignment, vessel, conveyance, package, wrapping or product in the exercise of powers under this Act in the manner provided for under this Act.

(7) Despite subregulation (1), an inspector shall enter a private dwelling house, land or premises occupied as a private dwelling, land or premises referred to under this section with a warrant.

(8) An inspector shall furnish the Director with a written report and any other information relating to an inspection under this section.

Inspection of  
imported  
plant, plant  
product or  
article

**43.** (1) A plant, plant product or article that is being imported into the Republic shall be inspected at the port of entry.

(2) An importer may, where it is impractical to inspect the plant, plant product or article at a port of entry, apply to an inspector in a prescribed manner and form, for an imported plant, plant product or article to be inspected at the final destination of the plant, plant product or article.



(3) An inspector may, within twenty-four hours of receipt of an application under subsection (2), grant or reject the application.

(4) An inspector shall grant an application made under subsection (2) if the importer has sealed and marked the container in a prescribed manner.

(5) An inspector shall, where the inspector approves an application under subsection (3), endorse the approval on the application form.

(6) An inspector shall, where the inspector rejects an application under subsection (3), inform the applicant in a prescribed form, stating the reasons for the rejection.

(7) A person shall not break any seal referred to under subsection (4) otherwise than in the presence of an inspector.

(8) A person who contravenes subsection (7) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

44. (1) An inspector may inspect a plant, plant product or article in transit, or a conveyance containing a plant, plant product or article in transit where the inspector has reasonable grounds to suspect that the plant, plant product, article or conveyance is likely to present a phytosanitary risk.

Inspection of  
in transit  
plant, plant  
product,  
article or  
conveyance

(2) An inspector shall, where the inspector identifies a phytosanitary risk in accordance with subsection (1), order the—

(a) importer to treat the plant, plant product, article or conveyance in a manner that the inspector may determine; or

(b) plant, plant product, article or conveyance to be quarantined for further inspection or treatment.

(3) An inspector shall, where the inspector determines that a phytosanitary risk is of a nature that the phytosanitary risk cannot be treated or trans-shipped in accordance with subsection (2), order the plant, plant product or article, or a plant, plant product or article in a conveyance, to be destroyed without compensation.

(4) An inspector may, where a plant, plant product or article that present a phytosanitary risk are in transit to another port within the Republic, order the importer to treat the plant, plant product, article or conveyance at the port of entry or port at which the phytosanitary risk is identified.

Detention,  
seizure,  
destruction,  
etc. of  
imported  
plant, plant  
product,  
article  
unlawfully  
imported

**45.** (1) Subject to subsection (2), an inspector may seize, detain, send back to the country of origin, or cause for treatment or destroy, without compensation, a plant, plant product or article with its container where the plant, plant product or article is—

- (a) not accompanied at the time of importation by a phytosanitary certificate or other prescribed document;
- (b) accompanied by an invalid phytosanitary certificate;
- (c) imported otherwise than in accordance with the conditions of a plant import permit issued under this Act; or
- (d) imported in contravention of the provisions of this Act.

(2) An inspector shall seize, detain, send back to the country of origin, or cause to be treated or destroy a plant, plant product or article unlawfully imported if the inspector gives notice, in writing, to the importer of the seizure, detention, sending back, treatment or destruction of the plant, plant product or article and the reasons for such action.

(3) An inspector shall, where an inspector has reasonable suspicion that a seized plant, plant product or article presents a risk for the introduction or spread of a pest, order the importer to destroy the plant, plant product or article at the importer's cost.

(4) An inspector may, where an inspector seizes a plant, plant product or article under subsection (1) which does not present a risk for the introduction or spread of a pest—

- (a) restore the plant, plant product or article to its owner without unnecessary delay; or
- (b) apply to the court for an order of forfeiture of the plant, plant product or article to the State where the inspector is satisfied that the owner cannot be found or is unwilling to receive back the plant, plant product or article.

(5) A court shall make an order of forfeiture under subsection (4) if—

- (a) the inspector has given notice, by publication in the *Gazette* and in a daily newspaper of general circulation in the Republic, to the effect that the plant, plant product or article which is seized under this section shall vest in the State if it is not claimed within one month from the date of publication of the notice; and
- (b) one month after the giving of the notice under paragraph (a), the plant, plant product or article remains unclaimed.

(6) An inspector may, where a claim is made, in writing, by a person that is lawfully entitled to the plant, plant product or article seized under this section, order the release of the plant, plant product or article to the claimant if the court is satisfied that there is no dispute concerning the ownership of the plant, plant product or article.

(7) An inspector shall refer a claim to the court where a claim of ownership is made in relation to a plant, plant product or article seized under this section and the inspector finds that—

(a) there is a dispute regarding the ownership of the plant, plant product or article; or

(b) there is insufficient evidence to determine the ownership of the plant, plant product or article.

**46.** (1) An inspector may detain a conveyance where the inspector has reasonable grounds to suspect the presence of a pest on the conveyance. Detention of conveyance

(2) An inspector shall, where the inspector detains a conveyance under subsection (1), order the owner, captain or agent of the conveyance to remove the risk in a manner that the inspector may determine at the owner, captain or agent's cost.

**47.** (1) An inspector may, until an order of the court is made regarding the disposal of a plant, plant product or article, seize and detain a plant, plant product or article where an inspector has reasonable grounds to believe that the plant, plant product or article presents a risk for the introduction or spread of a pest. Seizure of plant, plant product or article

(2) An inspector shall, where a plant, plant product or article that is seized under subsection (1) is found, after due investigation, to not present a risk for the introduction or spread of a pest—

(a) restore the plant, plant product or article to its owner without unnecessary delay; or

(b) apply to a court for an order of forfeiture of the plant, plant product or article to the State where the inspector is satisfied that the owner cannot be found or is unwilling to receive back the plant, plant product or article.

(3) Where an application to a court is made under subsection (2)(b), section 45(5), (6) and (7) shall apply to this section.

**48.** (1) The Director may after fourteen days of seizing a plant, plant product or article, make an ex parte application to the court for an order declaring a plant, plant product or article to be forfeited without compensation and ordering the plant, plant product or article to be disposed of as the Department considers necessary, where the owner of the plant, plant product or article Disposal of seized plant, plant product or article

(a) is unknown;

(b) cannot be found for the purpose of service of originating court process; or

(c) having being served with the originating court process, fails to appear before court.

(2) The Director may, where a plant, plant product or article is infested or is reasonably suspected to be infested with a pest and is seized in accordance with this Act and is treated, within seven days, publish in a daily newspaper of general circulation in the Republic a notice of intention to apply for forfeiture of a plant, plant product or article to the State.

(3) The Director shall make an *ex-parte* application for a court order for forfeiture in the area in which a plant, plant product or article was seized.

(4) A person who claims any rights of ownership of a plant, plant product or article published under subsection (2) may, within seven days after the date of publication, lodge with the court a notice of claim of ownership and serve a copy of the notice on the Director.

(5) Despite subsection (1), the Director may make an *ex-parte* application to the court for an order for the immediate disposal by sale of a plant, plant product or article and the proceeds shall be held by the Director pending the determination of any claim of ownership made for a plant, plant product or article.

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2018

(6) Subject to the Public Finance Management Act, 2018, the Director shall deal with the proceeds referred to under subsection (5) as the court may direct or, if the owner of a plant, plant product or article is unknown or cannot be found for the purposes of service of the process of the court, subsection (1) shall apply as the court may direct.

Disposal of  
abandoned  
plant, plant  
product or  
article

**49.** The Director may, if a plant, plant product or article is abandoned or is not claimed by a person, dispose of a plant, plant product or article by sale, donation or destruction if the plant, plant product or article is determined to be safe after undergoing treatment.

Obstruction  
of inspector

**50.** (1) A person commits an offence if the person—

(a) wilfully delays or obstructs an inspector in the carrying out of the inspector's functions under this Act; or

(b) knowingly or negligently gives an inspector false or misleading information orally, in writing or otherwise.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**51.** (1) A law enforcement officer may arrest a person, without a warrant, where the law enforcement officer has reasonable grounds to believe that the person—

Arrest  
without  
warrant

- (a) has committed an offence under this Act;
- (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence; or
- (c) is wilfully obstructing an inspector in the execution of the inspector's duties.

(2) A law enforcement officer who makes an arrest under subsection (1) shall, without undue delay, have the person arrested brought to a police station.

## PART X

### GENERAL PROVISIONS

**52.** (1) Subject to this Act, the Director may suspend or cancel a certificate of registration issued under this Act if—

Suspension  
or  
cancellation  
of certificate  
of  
registration

- (a) the certificate of registration was obtained on the basis of fraud, misrepresentation or concealment of a material fact;
- (b) a holder of a certificate of registration fails a compliance audit conducted in accordance with section 61;
- (c) in the case of a pest controller, the pest controller has ceased to carry on business as a pest controller;
- (d) in the case of a plant health related structure, the holder of a certificate of registration has ceased to carry on business; or
- (e) the holder of a certificate of registration fails to comply with a term or condition of the certificate of registration as prescribed.

(2) The Director shall, not less than thirty days before suspending or cancelling a certificate of registration, notify the holder of a certificate of registration in a prescribed manner and form of the intention to suspend or cancel the certificate of registration, and give reasons for the intended suspension or cancellation, and require the holder of a certificate of registration to show cause within a period specified in the notice, why the certificate of registration should not be suspended or cancelled.

(3) The Director shall not suspend or cancel a certificate of registration under this section if the holder of a certificate of registration takes remedial measures to the satisfaction of the Director within the period referred to under subsection (2).

(4) The Director shall, in making its final determination on the suspension or cancellation of a certificate of registration, consider the submissions made by the holder of a certificate of registration under subsection (2).

(5) The Director may suspend or cancel a certificate of registration in a prescribed form if the holder of a certificate of registration after being notified under subsection (2), fails to show cause or does not take any remedial measures, to the satisfaction of the Director, within the time specified in that subsection.

(6) The Director may, before cancelling a certificate of registration under this section, suspend the certificate of registration on terms and conditions that the Director may determine.

(7) A holder of a certificate of registration whose certificate of registration is cancelled shall, within seven days of being notified of the cancellation, surrender the certificate of registration to the Department.

Re-  
registration

**53.** (1) A person whose certificate of registration is suspended or cancelled under section 52, may apply to the Director for re-registration in a prescribed manner and form on payment of a prescribed fee.

(2) The Director may re-register an applicant under subsection (1), on the terms and conditions that may be prescribed.

Transfer of  
plant import  
permit,  
phytosanitary  
certificate or  
certificate of  
registration

**54.** (1) A holder of a plant import permit or phytosanitary certificate issued under this Act shall not transfer a plant import permit or phytosanitary certificate to another person.

(2) A holder of a certificate of registration issued under this Act shall not transfer a certificate of registration to another person without the prior approval of the Director.

(3) A holder of a certificate or registration who intends to transfer the certificate of registration to another person shall apply to the Director in a prescribed manner and form on payment of a prescribed fee.

(4) The Director shall, within thirty days of receipt of an application under subsection (2), grant or reject the application.

(5) The Director shall, where the Director rejects an application under subsection (3), inform the applicant, in writing, stating the reasons for the rejection.

(6) The Director shall, where the holder of a certificate of registration satisfies the prescribed requirements, cancel the certificate of registration issued to that person and issue the transferee with a certificate of registration in a prescribed manner and form.

**55.** (1) A holder of a certificate of registration, plant import permit or phytosanitary certificate issued under this Act shall surrender the certificate of registration, plant import permit or phytosanitary certificate to the Department if the person has ceased to carry on the business for which the certificate of registration, plant import permit or phytosanitary certificate was granted.

Cessation of  
business

(2) A certificate of registration, plant import permit or phytosanitary certificate surrendered under subsection (1) shall be cancelled.

**56.** A holder of a certificate of registration, plant import permit or phytosanitary certificate shall notify the Department of any change in the particulars relating to the certificate of registration, plant import permit or phytosanitary certificate within seven days of the change.

Change in  
details

**57.** (1) A person whose certificate of registration, plant import permit or phytosanitary certificate is destroyed or lost may apply to the Director for a duplicate certificate of registration, plant import permit or phytosanitary certificate in a prescribed manner and form on payment of a prescribed fee.

Duplicate  
certificate of  
registration,  
plant import  
permit or  
phytosanitary  
certificate

(2) The Director may, on receipt of an application under subsection (1), issue to the applicant a duplicate certificate of registration, plant import permit or phytosanitary certificate.

**58.** (1) The Director may, where the Director has reasonable grounds to believe that a condition of a plant import permit or phytosanitary certificate issued under this Act has been breached, serve a compliance order on the holder of a plant import permit or phytosanitary certificate requiring the holder to remedy the breach within a period specified under the compliance order.

Compliance  
order

(2) A compliance order issued under subsection (1) may—

(a) suspend the plant import permit or phytosanitary certificate with immediate effect if the Director considers that the suspension is necessary to prevent or mitigate the significant spread of a regulated pest;  
or

(a) require a person to take measures to prevent or mitigate the significant spread of a regulated pest.

(3) The Director may, where a person fails to comply with a compliance order issued under this section—

(a) take the necessary steps to remedy the breach and recover the cost of remedying the breach from that person;

(b) vary the conditions of the plant import permit or phytosanitary certificate; or

(c) revoke the plant import permit or phytosanitary certificate.

(4) A person who is served with a compliance order shall comply with the requirements of the compliance order on the date specified in the compliance order and if the date is not specified, the person shall comply with the compliance order immediately.

(5) Despite subsection (3), a person who fails to comply with a compliance order issued under this section within the period specified in accordance with subsection (4) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Detention  
order

**59.** (1) The Director may, where a person fails to comply with a phytosanitary measure specified in a plant import permit issued under this Act, instruct an inspector to issue a detention order.

(2) An inspector who issues a detention order may—

(a) recommend treatment measures;

(b) require a person to return a plant, plant product or article to its country of origin; or

(c) destroy a plant, plant product or article.

(3) A person who contravenes a condition of a detention order commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Cost order

**60.** (1) The Director may, where a person fails to comply with the conditions in a plant import permit or phytosanitary certificate issued under this Act, require that person to reimburse the Government for the cost of taking the measures to mitigate the non-compliance with a plant import permit or phytosanitary certificate.

(2) The cost order shall be enforced as if it were an order of court where no application for the review of the cost order is made.

(3) A person that is aggrieved with a cost order made under this section shall apply to the Minister for the review of the cost order.

(4) The Minister shall, within thirty days of an application for review made under subsection (3), make a final order in relation to the cost order.

Compliance  
audit

**61.** (1) The Director shall conduct a compliance audit in a prescribed manner on payment of a prescribed fee.



(2) Despite subsection (1), a pest controller or operator of a plant health related structure shall apply for a compliance audit in a prescribed manner and form on payment of a prescribed fee.

(3) Where a pest controller or an operator of a plant health related structure does not comply with a compliance audit, a certificate of registration may be suspended or cancelled in accordance with section 52.

**62.** Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge consent or connivance of the director, manager, partner or shareholder of that body corporate or unincorporate body, that director, manager, partner or shareholder commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to the penalty specified for that offence under this Act.

Offence by  
principal  
officers of  
body  
corporate or  
unincorporate  
body

**63.** (1) The Director may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence.

Administrative  
penalty

(2) An administrative penalty shall not exceed the amount prescribed by the Minister for each day during which such failure continues.

(3) An administrative penalty is payable to the Director within the period specified by the Director.

(4) If any person fails to pay an administrative penalty, within the period specified in subsection (3), The Director may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Department.

**64.** (1) The Department may, in the performance of the Department's functions under this Act, issue guidelines that are necessary for the better carrying out of the provisions of this Act.

Guidelines

(2) The Department shall publish the guidelines issued under this Act by notice in the *Gazette* or in a manner that the Department may determine, and the guidelines shall not take effect until they are so published.

(3) The guidelines issued by the Department under this Act shall bind all persons regulated under this Act.

**65.** A person shall not, without the consent, in writing, given by or on behalf of the Director or otherwise permitted by any written law, publish or disclose to a person, other than in the course of that person's duties, the contents of a document, communication or information, which relates to, or which has come to, that person's knowledge in the course of that person's duties under this Act.

Prohibition  
of  
publication  
or disclosure  
of  
information  
to  
unauthorised  
persons

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

## Immunity

**66.** An action or other proceeding shall not lie or be instituted against the Director, inspector or other staff of the Department for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.

## Appeals

**67.** (1) A person who is aggrieved with a decision of the Director may, within thirty days of the receipt of the Director's decision, appeal to the Minister, in writing.

(2) A person aggrieved with a decision of the Minister may, within thirty days of the receipt of the Minister's decision, appeal to the High Court.

## General offences

**68.** (1) A person commits an offence if that person—

- (a) assaults, resists, intimidates, wilfully obstructs, impedes or hinders an inspector in the carrying out of the inspector's duties under this Act;
- (b) contravenes or fails to comply with a provision of this Act, regulations or any order or notice made or issued in terms of this Act;
- (c) without reasonable cause contravenes or fails to comply with any condition of a plant import permit or phytosanitary certificate issued under this Act;
- (d) intentionally introduces or causes the introduction or spread of a pest;
- (e) on being required to do so, fails or refuses to produce to an inspector, a customs officer or an authorised person referred to under section 7, a plant import permit or phytosanitary certificate or other document relevant for the purpose of this Act;

- (f) fails or refuses without reasonable cause, to give information to an inspector, a customs officer or an authorised person referred to under section 7, when required to do so under this Act;
- (g) knowingly or recklessly gives false or incomplete information for purposes of obtaining a plant import permit or phytosanitary certificate under this Act;
- (h) wilfully or recklessly gives to an inspector false or misleading information with respect to a material fact which the inspector requires for the purposes of this Act;
- (i) grows, possesses, sells, offers for sale, transports or distributes in any manner any plant, plant product or article knowing that the plant, plant product or article is infested with a regulated pest;
- (j) tampers with any specimen taken for purposes of this Act;
- (k) intentionally fails to safeguard the phytosanitary security of a consignment after issuance of phytosanitary documents;
- (l) alters or defaces a certificate, permit or other document issued under this Act; or
- (m) writes or causes to be published whether by print or electronic media, any material on the occurrence of a quarantine pest, without the prior approval of the Director.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

**69.** (1) The Minister may, in consultation with the Director, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Despite the generality of subsection (1), the regulations may make provision for—

- (a) the form and manner in which applications for certificates and permits are to be made under this Act, and the fees to be paid in respect of an application;
- (b) conditions of a certificate or permit issued under this Act;
- (c) the procedures to be followed by inspectors in the exercise of their powers under this Act;
- (d) conditions for the import of a plant, plant product or article into the Republic;

- (e) the ports of entry for the import and export of a plant, plant product or article;
- (f) the movement of a plant, plant product or article within the Republic and the fees payable;
- (g) the procedure of auditing the systems applied for the export, or production for export, of a plant, plant product or article;
- (h) a list of regulated pests;
- (i) procedures and guidelines for pre-clearance inspections;
- (j) the manner of marking and sealing a consignment to prevent interference;
- (k) the manner of transporting or storing a plant, plant product or article;
- (l) the procedure and fees to be paid for the treatment of an imported, exported, re-exported or transit plant, plant product or article;
- (m) the procedure for the treatment of a conveyance containing a plant, plant product or article;
- (n) the requirements for the control, care, removal, treatment and destruction of a plant, plant product or article maintained at a plant quarantine station;
- (o) a period within which an owner or occupier shall plant or re-plant a quarantine land, area or premises;
- (p) the manner of taking, marking or retaining a specimen under this Act;
- (q) the operating procedures of a plant related structure registered under this Act;
- (r) the procedure and fees to be paid for the inspection of a plant, plant product or article for the purposes of export or re-export; or
- (s) any measures to be taken for the purpose of preventing the introduction or spread of a pest.

Repeal of  
Plant pests  
and  
Diseases  
Act, and  
savings and  
transitional  
provision  
Cap. 233

**70.** (1) The Plant Pests and Diseases Act, 1958, is repealed.

(2) A certificate or permit issued under the repealed Act shall continue to be valid, until suspended or cancelled, as if the certificate or permit was issued under this Act.

(3) An application for a certificate or permit pending under the repealed Act, shall, on commencement of this Act, be issued in accordance with this Act.