

CHAPTER 35:02
PLANT DISEASES AND PESTS

ARRANGEMENT OF SECTIONS

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Proc. 19, 1959,
G.N. 7, 1959,
Law 30, 1962,
HMC. Order 1, 1963,
L.N. 84, 1966.

An Act to provide for the prevention of the introduction into and the spread within Botswana of plant diseases and plant pests.

[*Date of Commencement: 20th March, 1959*]

1 Short title

This Act may be cited as the Plant Diseases and Pests Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"Director" means the Director of Agricultural Field Services;

"nursery" means any premises where trees, shrubs, vines and ornamental or fruit-bearing plants are grown for sale or disposal in their living state;

"plant" means any tree, shrub or vegetation and the fruit, leaves, cuttings or bark thereof and includes any live portion of a plant whether severed or attached and-

- (a) any dead portion or product thereof; and
- (b) any seed,

mentioned in this Act;

"plant disease" means any bacterial or fungal or other disease which is or is likely to be injurious to plants;

"plant pest" means any insect or other invertebrate animal which is or is likely to be injurious to plants;

"regional country" means Lesotho, Zimbabwe, Zambia, Malawi, Namibia, Swaziland, or the Republic of South Africa;

"soil" includes manure and compost but does not include chemical fertiliser.

3. Importation of plants

(1) No person without or otherwise than in accordance with any conditions attached to a permit issued by the Director for that purpose shall import into Botswana-

- (a) from elsewhere than a regional country, a plant of any kind included in the First Schedule;
- (b) from elsewhere than a state registered nursery in a regional country, a plant of any kind included in the Second Schedule;
- (c) a plant of any kind included in the Third Schedule; or
- (d) any soil.

(2) Conditions attached to a permit issued in terms of subsection (1) may be such as are necessary, in the opinion of the Director, to prevent the introduction of any plant diseases or plant pests into Botswana, or to ensure compliance with any international phytosanitary obligations to which Botswana may be subject, and shall be endorsed in writing upon the permit.

(3) Without prejudice to the generality of subsection (2) the Director, in issuing a permit for the importation of any plant mentioned in the Second Schedule from elsewhere than a state registered nursery in a regional country, may impose as a condition thereof that the plant shall be imported only from or through Zimbabwe, Zambia, Malawi, Namibia, or the Republic of South Africa, as he may specify, and shall not be introduced into Botswana until a certificate

has been produced to him purporting to have been issued by an officer of the Government of that country confirming that all phytosanitary measures required by the law of that country have been carried out.

(4) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P400 or to imprisonment for a term not exceeding two years in default of payment.

4. Examination and treatment of imported plants

(1) The President by order published in the *Gazette* may apply the provisions of this section to such kinds or species of plant as he may prescribe.

(2) Where a person imports into Botswana-

- (a) a plant imported under permit in terms of section 3, a condition of which permit is that the provisions of this section shall apply; or
- (b) a plant of a kind or species to which the provisions of this section have been applied by the President in terms of subsection (1),

that person shall deliver the plant together with its wrappings or packing material immediately upon importation to the Director or to an agricultural officer nominated for this purpose by the Director.

(3) The Director or the agricultural officer referred to in subsection (2), upon delivery of a plant in terms thereof-

- (a) may cause the plant and its wrappings or packing material to be examined;
- (b) if the presence of any plant disease or plant pest thereon is established or reasonably suspected, may cause the same to be cleansed or disinfected at the expense of the importer; and
- (c) if he considers that any measures taken or to be taken under paragraph (b) are or are likely to be ineffective and he deems the plant disease or plant pest to be dangerous, may cause the same to be destroyed.

(4) Compensation, assessed as provided in section 9 shall be payable from public funds for the destruction of a plant under subsection (3)(c) if the presence of the plant disease or plant pest was not in fact established.

(5) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and liable to a fine not exceeding P400 or to imprisonment for a term not exceeding two years in default of payment.

5. Nurseries

(1) Within 30 days of the commencement of this Act, or, in the case of a nursery established

after the commencement of this Act, within 30 days of that establishment, every occupier of a nursery shall register the nursery with the Director; and the occupier shall re-register the nursery with the Director during the month of July every year for so long as the nursery continues to be occupied as such.

(2) The Director or any agricultural officer, at all reasonable times, may enter any nursery and take all necessary steps to examine any plant there being.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 and a further fine not exceeding P2 for every day during which the offence continues or to imprisonment for a term not exceeding six months in default of payment.

(4) The President may, by statutory instrument, make regulations requiring plants before removal from a nursery to be disinfected, fumigated or cleansed and may prescribe the means and equipment to be employed for this purpose.

(5) Regulations made under subsection (4) may impose penalties not exceeding those set out in subsection (3) for offences against such regulations.

6. Sale of plants

(1) No person shall sell or otherwise dispose of any tree, shrub, vine, ornamental plant or fruit-bearing plant from any nursery required to be registered under section 5(1) and not so registered.

(2) No person shall sell any tree, shrub, vine, ornamental plant or fruit-bearing plant from any nursery unless his name and address are legibly and durably affixed to the plant or to the container in which it grows or is packed.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months in default of payment.

7. Quarantine

(1) If the Director is satisfied that any plant disease or plant pest is present at any premises he may, by giving written notice to the occupier thereof, order that those premises shall be in quarantine, and he may likewise renew any such order from time to time.

(2) An order made under subsection (1) shall remain in force until revoked by the Director, or until the expiration of three months from the date of the order or any renewal thereof.

(3) No person shall remove or cause to be removed from any premises in quarantine any plant without or otherwise than in accordance with any conditions attached to a permit issued by the Director or an agricultural officer for that purpose.

(4) Any person who contravenes the provisions of subsection (3) shall be guilty of an

offence and liable to a fine not exceeding P400 or to imprisonment for a term not exceeding two years in default of payment.

(5) The Director or any agricultural officer at all reasonable times may enter any premises in quarantine and may examine any plant therein and may put therein any stake, peg, tag or other mark.

(6) Any person who without the consent of the Director or an agricultural officer removes, destroys, mutilates or interferes with any stake, peg, tag or other mark put in premises under subsection (5) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months in default of payment.

(7) In any prosecution for an offence under subsection (6) if it is proved that any stake, peg, tag or other mark placed in premises under subsection (5) has been removed, destroyed, mutilated or interfered with, the occupier of those premises shall be deemed to have so removed, destroyed, mutilated or interfered with the stake, peg, tag or other mark unless he proves to the satisfaction of the court that he did not do so and that he gave express instructions not to do so to every person employed by him at the premises.

8. Cleansing, disinfection, and destruction of diseased plants

(1) The President by notice in writing addressed to the occupier of any premises in quarantine may order the occupier to take such steps to the satisfaction of the Director as the President may prescribe in the notice for the cleansing or disinfecting of any plant at the said premises.

(2) The President by notice in writing addressed to the occupier of any premises in quarantine may order the occupier to destroy-

- (a) any plant on the premises which is infected with any plant disease or infested with any plant pest which cleansing and disinfecting have failed or are unable to eradicate and which is deemed by the President to be specially dangerous; or
- (b) any plant on the premises reasonably suspected of being so infected or infested.

(3) Where an order is made by the President under this section and the occupier fails to comply therewith, the Director shall be entitled to take such steps as may be necessary to carry out its terms and to recover as a civil debt the cost of so doing from the occupier.

(4) Any person who fails without reasonable cause (proof whereof shall lie upon him) to comply with the provisions of an order made under this section shall be guilty of an offence and liable to a fine not exceeding P400 and a further fine not exceeding P10 for every day during which the offence continues or to imprisonment for a term not exceeding two years in default of payment.

9. Compensation

(1) Compensation shall be payable from public funds for any plant destroyed in terms of

section 8(2)(b).

(2) Such compensation shall, in default of agreement between the Director and the occupier, be assessed by two assessors, one nominated by the Director and one by the occupier.

(3) If the assessors fail to agree, an appeal shall lie to the President whose decision shall be final.

10. Restrictions on use of land affected by citrus canker

(1) No person shall plant or raise or keep any citrus plant on any land on which a citrus plant has been destroyed because of the presence of citrus canker, or on land adjacent to any such land, or on land in quarantine by reason of the presence of citrus canker, without or otherwise than in accordance with any conditions attached to a permit to do so issued by the Director.

(2) Nothing in this section shall be deemed to prohibit the keeping of a citrus plant on land declared to be in quarantine after that plant was planted there.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P400 and a further fine not exceeding P10 for every day during which the offence continues or to imprisonment for a term not exceeding two years in default of payment.

11. Destruction of cotton plants

(1) The occupier of any land on which cotton is planted shall uproot and destroy the plants every year-

- (a) before a date to be appointed for this purpose by the President by order published in the *Gazette*; or
- (b) if no such date is appointed before the first day of September.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P400 and a further fine not exceeding P10 for every day during which the offence continues or to imprisonment for a term not exceeding two years in default of payment.

12. Obstructing officers

Any person who hinders or obstructs the Director or any agricultural officer in the performance of his duties under this Act shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months in default of payment.

13. Variation of schedules

The President may by statutory instrument vary any of the Schedules.

14. President's powers of exemption

The President may in writing exempt any person from any of the provisions of this Act on such conditions as he may see fit to impose.

15. Jurisdiction

Notwithstanding the provisions of any law to the contrary, a magistrate's court presided over by a Magistrate Grade I or over shall have special jurisdiction to impose any of the penalties prescribed in this Act.

FIRST SCHEDULE PLANTS WHICH MAY BE IMPORTED FROM ELSEWHERE THAN A REGIONAL COUNTRY WITHOUT A PERMIT

(Section 3)

- (a) The seeds and the flowering or seed heads of any species of *Arctium*;
- (b) any cotton plant or wild cotton plant of the genus *Gossypium* or *Thurberia* or any other plant of the family Malvaceae or any plant of the genus *Bauhinia*;
- (c) cotton seeds;
- (d) eucalyptus, acacia or coniferous plants;
- (e) fresh stone fruits, namely, apricots, plums, peaches, nectarines and cherries;
- (f) grape vines or other plants of the family *Vitaceae*;
- (g) *hibiscus cannabinus*, excluding Kenaf fibre which has been retted or decorticated;
- (h) *hibiscus esculentus*;
- (i) lucerne hay, whether fresh or dried;
- (j) lucerne plants or any portion thereof;
- (k) lucerne seed;
- (l) any species of *Opuntia*;
- (m) peach stones;
- (n) plants cultivated for the production of rubber;
- (o) sugar canes;
- (p) tea plants;
- (q) any seed of tobacco or of any plant belonging to the genus *Nicotiana*.

SECOND SCHEDULE

**PLANTS WHICH MAY NOT BE IMPORTED FROM ELSEWHERE THAN A STATE
REGISTERED NURSERY IN A REGIONAL COUNTRY WITHOUT A PERMIT**

(Section 3)

Any tree, shrub, vine, ornamental plant or fruit-bearing plant not included in the Third Schedule.

**THIRD SCHEDULE
PLANTS WHICH MAY NOT BE IMPORTED INTO BOTSWANA WITHOUT A PERMIT**

(Section 3)

Any citrus plant (excluding citrus fruit).