

L.N. 19 of 2011**PLANT QUARANTINE ACT
(CAP. 433)****Plant Quarantine (Harmful Organisms) (Amendment)
Regulations, 2011**

IN exercise of the powers conferred by article 32 of the Plant Quarantine Act, the Minister for Resources and Rural Affairs, has made the following regulations:

1. (1) The title of these regulations is the Plant Quarantine (Harmful Organisms) (Amendment) Regulations, 2011 and they shall be read and construed as one with the Plant Quarantine (Harmful Organisms) Regulations, 2004, hereinafter referred to as “the principal regulations”.

Title and scope.

L.N. 97 of 2004.

(2) The scope of these regulations is to transpose Council Directive 2009/143/EC amending Council Directive 2000/29/EC.

(3) These regulations make provisions for the delegation of the tasks provided for in these regulations, including the delegation of the tasks of laboratory testing.

2. Regulations 4A to 4K of the principal regulations shall be renumbered as regulations 4B to 4L respectively.

Renumbering of regulations 4A to 4K

3. Immediately after regulation 4 of the principal regulations there shall be added the following new regulation:

Adds new regulation 4A to the principal regulations.

“Responsibility for execution of tasks.

4A. (1) For the purpose of this regulation, and unless the context otherwise requires:

“lawful person” means any official laboratory, university, research institute, private laboratory, professional person and any other

person or body lawfully authorised by the Director to act on his behalf;

Cap. 497. “public functions” means activities and tasks covered by the Public Administration Act.

(2) In these regulations, any reference made to the Director shall be construed as a reference to the Director responsible for Plant Health, and the Directorate shall be construed accordingly and shall include its Director, or any person lawfully empowered or engaged by the Director to act on his behalf.

(3) The Director may delegate any task provided for in these regulations to be accomplished under his authority and supervision to a person lawfully appointed or empowered by him to act on his behalf, provided that such person, or any other member appointed by him has no personal or conflict of interest in the outcome of any measure to be taken.

(4) The Director shall ensure that such person is under his officially approved authority and is exclusively charged with specific public functions, with the exception of laboratory testing which such person may perform even where the laboratory testing does not form part of his specific public functions.

(5) Notwithstanding sub-regulation (4) hereof, the Director may delegate any laboratory testing provided for in these regulations to any person lawfully authorised or engaged by him who does not comply with the provisions of sub-regulation (4) hereof.

(6) The person lawfully delegated by the Director to carry out laboratory testing shall be in conformity to the criteria established in Schedule XXIII to these regulations:

Provided that these criteria may be amended from time to time, as published by the Directorate.”.

4. Schedules XIV to XXII of the principal regulations shall be amended as follows:

Amends Schedules XIV to XXI to the principal regulations.

(a) in Schedule XIV, for the words “(Regulation 4A) there shall be substituted the words “(Regulation 4B)”;

(b) in Schedule XV, for the words “(Regulation 4B) there shall be substituted the words “(Regulation 4C)”;

(c) in Schedule XVI, for the words “(Regulation 4C) there shall be substituted the words “(Regulation 4D)”;

(d) in Schedule XVII, for the words “(Regulation 4D) there shall be substituted the words “(Regulation 4E)”;

(e) in Schedule XVIII, for the words “(Regulation 4E) there shall be substituted the words “(Regulation 4F)”;

(f) in Schedule XIX, for the words “(Regulation 4F) there shall be substituted the words “(Regulation 4G)”;

(g) in Schedule XX, for the words “(Regulation 4G) there shall be substituted the words “(Regulation 4H)”;

(h) in Schedule XXI, for the words “(Regulation 4H) there shall be substituted the words “(Regulation 4I)”;

(i) in Schedule XXII, for the words “(Regulation 4J) there shall be substituted the words “(Regulation 4K)”.

5. Immediately after Schedule XXII to the principal regulations there shall be added the following new schedule:

Adds new Schedule XXIII to the principal regulations.

“SCHEDULE XXIII

(Regulation 4A)

CRITERIA FOR DELEGATION OF LABORATORY TASKS

Persons lawfully appointed by Director to whom laboratory tasks are delegated or assigned shall fulfil the following criteria:-

1. They shall be independent and impartial, having no conflict of interest between the exercise of the tasks delegated to them and the exercise of other activities carried out by them. Persons lawfully delegated for carrying out laboratory tasks may be requested to sign a declaration in this regard.

2. They shall treat all information related to the delegated tasks as private confidential and shall not be allowed to submit in any manner whatsoever such information to third parties or publish such information.

3. They shall be familiar with relevant legislation including international, EU and national legislation, having at least five (5) years' experience in related phytosanitary matters.

4. They shall use appropriate diagnostic methods and procedures for tasks delegated to them. Methods used should be in accordance with relevant EU legislation where applicable. When this is not available, EPPO or IPPC diagnostic protocols and other methods may be considered, according to the circumstances of use.

5. Laboratories shall be able to maintain and develop the necessary expertise and infrastructure to fulfil the tasks delegated to them.

6. They shall carry out diagnostic procedures in a quality-assured manner. In case of laboratories, these shall comply with at least one of the following criteria:

i) be accredited according to MSA EN ISO/IEC 17025 for plant health diagnosis; or

ii) be designated as a National Reference Laboratory for specific pests or diseases in the area of plant health; or

iii) be nominated as an official control laboratory for plant health diagnosis in its country; or

iv) be under the management of a professional or professionals with the necessary qualifications or experience as indicated in paragraph 7 hereof.

7. In case of professionals delegated to carry out laboratory tasks, they shall be in possession of a Masters Degree or a Doctorate in a discipline relevant to the tasks delegated to them or have at least ten (10) years experience as an equivalent in the diagnosis of plant pests and diseases. Such professionals shall carry out tasks assigned to them in laboratories with the appropriate infrastructure.”.

