

# **Plants Act 1984**

## **LAWS OF WESTERN SAMOA**

### **PLANTS**

#### **ANALYSIS**

#### **TITLE**

#### **PART I PRELIMINARY**

1. Short title
2. Interpretation
3. Act to bind the Government

#### **PART II IMPORTATION**

4. Quarantine
5. Minister may appoint ports
6. Emergency restriction on importation
7. Importation for purposes of scientific research
8. Plant material, etc., illegally introduced may be seized
9. Duty of Post Office officers and Custom officers
10. Regulations

#### **PART III DISEASE CONTROL**

11. Control or eradication of disease
12. Proclamation of plant disease emergency
13. Emergency powers for eradication of serious disease
14. Regulations

#### **PART IV PLANT CONTROL**

15. Disease and pests in crops for export
16. Regulations

**PART V  
ADMINISTRATION**

17. Appointment of officers
18. Powers of inspectors
19. Rights of entry
20. Liability for causing inspector to incur expense
21. Obstructing to hindering inspector an offence

**PART VI  
MISCELLANEOUS PROVISIONS**

22. Giving notice under this Act
23. Dispatch of plants to Western Samoa
24. Existence of disease
25. Erroneous and knowingly false declarations
26. Offences
27. Fines
28. No right to compensation
29. Regulations
30. Other legislation not affected
31. Repeals, savings and amendment

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**THE PLANTS ACT 1984**

**1984, No. 33**

**AN ACT to consolidate and amend the law relating to plants and plant diseases.**

[20 December 1984]

**PART I  
PRELIMINARY**

**1. Short title** - This Act may be cited as the Plants Act 1984.

**2. Interpretation** - In this Act, unless the context otherwise requires:

"**Aircraft**" includes a hovercraft.

"**Beneficial organism**" means any organism designated as a beneficial organism by the Director under section 25 of this Act.

"**Chief Quarantine Officer**" means any Chief Quarantine Officer appointed pursuant to section 17 of this Act.

"**Conveyance**" means any kind of aircraft or vessel or vehicle, whether self-propelled or not.

**"Department"** means the Department of Agriculture, Forests and Fisheries.

**"Director"** means the Director of Agriculture, Forests and Fisheries, and in respect of any power conferred on the Director under any part of this Act, includes any person to whom the Director lawfully makes a delegation pursuant to the authority conferred on him by section 10 of the Agriculture, Forests and Fisheries Ordinance 1959 of the powers exercisable by him under this Act, and any person to whom the Director has made such a delegation for any purpose shall be deemed to be included in the term "inspector" where it relates to any such purpose.

**"Disease"** means any disease declared by the Minister by notice published in the Gazette or in the Savali, to be a disease affecting plant material.

**"Fruit"** means the edible product of any plant whether attached to the plant or not, and includes any peel, skin, shell, or seeds whether edible or not.

**"Government"** means the Government of the Independent State of Western Samoa.

**"Infected"** in relation to any plant material or beneficial organism, means that the plant material or beneficial organism is not known to be actually diseased or pestiferous, but may in the opinion of an inspector have had direct or indirect contact or been in association with, or been in the vicinity of, any disease, pest, or infected plant material or infected beneficial organism: and in relation to any package, includes any case, container, cargo container, or other package, or packing material in which any disease or pest, or any diseased, pestiferous, or infected plant material is, or has been packed, or which in the opinion of an inspector may have had direct or indirect contact or association with, or been in the vicinity of, any disease or pest, or any diseased, pestiferous, or infected plant material.

**"Inspector"** means any inspector or temporary inspector appointed pursuant to section 17 of this Act.

**"Land"** includes any area, field, plantation, farm, garden, orchard, nursery, hothouse, glasshouse, shadehouse, cool store, dwellinghouse, shop, building, room, or other place or premises, and references to land extend to and include any water, harbour, highway, road, wharf and port.

**"Minister"** means the Minister of Agriculture, Forests and Fisheries.

**"Nursery"** means any place used for raising or growing any plant material for sale.

**"Occupier"** in relation to any land, means any proprietor, lessee, licensee, or occupant of the land, and includes the agent of any proprietor, lessee, or occupant, and any manager, overseer, superintendent, or person in possession or charge of the land.

**"Package"** includes every means by which plant material is encased, covered, enclosed, contained or packed for carriage and includes a cargo container.

**"Pest"** includes the living stage of any insect, mite, or other invertebrate animal, which may directly or indirectly cause an unhealthy condition in any plant material or beneficial organism; and includes any such condition caused by any pest, and "pestiferous" has a corresponding meaning.

**"Plant material"** includes any plant, tree, shrub herb, flower, nursery stock, culture, vegetable, or other vegetation, and also includes any fruit, seed spore, and portion or product of any plant, unless, by any manufacturing process, it has been rendered no longer viable, and has been freed from all diseases and pests, and has been made incapable of carrying any disease or pest.

**"Port"** includes seaport, airport and post office.

**"Serious disease or pest"** means a disease or pest that is not known to be present in Western Samoa, or, if known to be present in Western Samoa, is one in respect of which measures are being taken under this Act to eradicate it from Western Samoa or from any part of Western Samoa.

**"Soil"** includes earth, water, peat, compost, sand, clay, and any other substance capable of supporting plant life, or transmitting any disease or pest, whether or not used or intended to be used as a growing medium, or in any process of manufacture, or as ballast, or for any other purpose whatsoever.

**"Vessel"** means any ship, boat, or other description of vessel or vehicle, whether self-propelled or not, used in navigation by sea.

**3. Act to bind the Government** - This Act binds the Government.

## **PART II IMPORTATION**

**4. Quarantine grounds** - (1) The Minister, acting on the advice of Cabinet, may from time to time by notice in the Gazette, set apart and define any land under his control as a quarantine ground for the detention of imported plant material or of one or more kinds of imported plant material, and from time to time may vary, alter, redefine or abolish any such ground by notice in the Gazette.

(2) All quarantine grounds and all erections, buildings, fences, appurtenances and fittings thereon shall be under the control of the Director or a person authorised by him.

(3) The Director may from time to time give directions as to the regulation, management, and control of quarantine grounds and the disposal, treatment or destruction of plant material while in quarantine or in transit to or from a quarantine ground; and may by such direction specify the time during which any plant material intended to be introduced into Western Samoa shall remain in quarantine.

**5. Minister may appoint ports** - The Minister may from time to time by notice in the Gazette or in the Savali:

(a) Appoint any specified ports to be the only ports which any plant material or any specified class of plant material may lawfully be imported or exported, either generally or to or from any specified country or place;

(b) Appoint fit buildings to be stores for the inspection and grading therein of any plant material or any specified class of plant material;

(c) Appoint fit buildings to be stores for the storage, cooling, fumigation, or other treatment of any plant material or any specified class of plant material after importation or before exportation; and

(d) Prescribe the manner in which and the conditions subject to which stores for inspection, grading or treatment of any plant material or any specified class of plant material shall be used.

**6. Emergency restrictions on importation** - (1) Notwithstanding anything in this Act, the Minister may for the purpose of preventing the introduction of any disease or pest into Western Samoa, at any time by notice in the Gazette or the Savali prohibit or restrict the introduction of any plant material, disease, pest, soil, package, or any other thing whatsoever.

(2) Any notice under subsection (1) of this section shall expire at the expiration of 6 months from the date of its publication in the Gazette or the Savali, but may from time to time be renewed.

**7. Importation for purposes of scientific research** - Notwithstanding anything in this Act, the Minister, acting on the advice of the Director may for the purpose of scientific research or experiment and subject to such terms and conditions as he thinks fit, permit the importation into Western Samoa of anything not otherwise eligible under this Act for importation into Western Samoa.

**8. Plant material, etc., illegally introduced may be seized** - Anything introduced into Western Samoa from abroad, or brought into any part of Western Samoa from any other part of Western Samoa, contrary to this Act, may, together with anything else which may thereby be infected, be seized by an inspector and be disinfected, destroyed, or otherwise disposed of as the inspector thinks fit, or may be required to be taken to a quarantine ground or be placed in isolation or under quarantine conditions, for further inspection and treatment as may be required.

**9. Duty of Post Office officers and Customs officers** - (1) It shall be the duty of all officers of the Post Office and of the Customs Department respectively to assist in carrying out the provisions of section 8 of this Act, and to prevent the introduction into Western Samoa or the bringing to any part of Western Samoa of anything contrary to this Act.

(2) If an officer of the Post Office has reasonable grounds for believing that a postal article contains anything introduced into Western Samoa from abroad, or brought into any part of Western Samoa from any other part of Western Samoa, contrary to this Act, he shall detain the postal article and hand it over to an inspector who may deal with it in accordance with this Act.

(3) If an officer of the Customs Department has reasonable grounds for believing that any plant material has been introduced into Western Samoa from abroad, contrary to this Act, or that any package or article contains anything introduced into Western Samoa from abroad contrary to this Act, he shall detain the plant material, package or article as the case may be and shall hand it over to an inspector who may deal with it in accordance with this Act.

**10 Regulations** - The Head of State, acting on the advice of Cabinet, may from time to time, make regulations for all or any of the following purposes:

(a) Prohibiting or restricting the introduction into Western Samoa, either generally or from any specified region, country, or place of origin, of all plant material, or such plant material as may be named, identified, or specified in the regulations as being likely to introduce any disease or pest into Western Samoa, or as having noxious or undesirable characteristics, or as being of a weak, inferior, or undesirable strain;

(b) Prohibiting or restricting the introduction into Western Samoa, either generally or from any specified region, country, or place of origin, of any soil, package, or other thing specified in the regulations as being likely to introduce any disease or pest into Western Samoa;

(c) Prohibiting or restricting the introduction into Western Samoa of any disease or pest;

(d) Prescribing conditions for introducing plant material into Western Samoa, either generally or from any specified region, country, or place of origin;

- (e) Prescribing treatment for aircraft or any vessel arriving from overseas and the procedure to be adopted on their arrival so as to prevent the introduction of any disease or pest into Western Samoa;
- (f) Requiring the sealing to the satisfaction of an inspector, on any vessel or aircraft arriving from overseas, of food lockers containing any plant material that has come from any overseas country, or any plant material that has been in the same locker as plant material that has come from an overseas country, and providing for the seizure of all such plant material if the locker cannot be sealed to the satisfaction of an inspector;
- (g) Providing for masters of vessels and aircraft and controlling authorities of ports to give such information for the purposes of this Act as may be prescribed from time to time;
- (h) Requiring every person (including every member of the crew of any vessel or aircraft) arriving in Western Samoa from overseas to give a certificate declaring in such form as may be prescribed whether he has any plant material, fungus, bacterium virus or micro-organism, or any insect, mite or other invertebrate animal or any soil in his possession;
- (i) Providing for the production of plant health certificates granted or issued overseas;
- (j) Providing for the inspection, observation, disinfection, treatment, destruction, reshipment, or disposal of any introduced plant material and the provision of any introduced plant material or any soil, package, or other things,
- (k) Providing for the control of plant material kept or grown in isolation or under quarantine conditions other than in quarantine stations.

### **PART III DISEASE CONTROL**

**11. Control or eradication of disease** - (1) The occupier of any land or the owner or person in charge of any conveyance shall do whatever is directed by an inspector to be necessary in respect of that land or conveyance to eradicate any serious disease or pest from, or to control or prevent the spread of any disease or pest to or from any place whatsoever.

(2) If the occupier of any land or the owner or person in charge of any conveyance fails to comply to the satisfaction of the inspector with any direction given under subsection (1) of this section, the inspector may with the authority of the Director carry out the measures directed in every way at the expense, but without prejudice to the liability under this Act, of the occupier, owner or person in charge.

**12. Proclamation of plant disease emergency** - (1) If at any time the Head of State acting on the advice of Cabinet is satisfied that an emergency has arisen or is likely to arise by reason of an outbreak of any serious disease or pest having occurred or being likely to occur in Western Samoa or in any part or parts thereof, he may by proclamation declare that a state of plant disease emergency exists throughout the whole of Western Samoa or such part or parts thereof as may be specified in the proclamation in that behalf.

(2) The Head of State, acting on the advice of Cabinet, may at any time in like manner revoke any such proclamation.

(3) No such proclamation shall remain in force for more than 6 months:

**PROVIDED THAT** nothing in this subsection shall prevent the issue of another proclamation before or after the end of that period.

**13. Emergency powers for eradication of serious disease** - (1) While a state of plant disease emergency exists, the Minister may direct that such measures be taken as lie, or any other person authorised in writing by him, may specify as necessary for the purpose of preventing the establishment of the serious disease or pest in Western Samoa or any part of Western Samoa or eradicating it from Western Samoa or any part of Western Samoa.

(2) The Minister may pay, out of money appropriated by Parliament for the purpose, to the owner of plant material or any other thing destroyed as an emergency measure an amount by way of compensation equal to the fair market value thereof, fixed as at the time of the inspection that results in the destruction of the plant material.

**14. Regulations** - The Head of State, acting on the advice of Cabinet, may from time to time make regulations for all or any of the following purposes:

(a) Providing that any land on which any specified disease or pest is found, together with any land which is within a specified distance from any part of that land, may be declared by the Director to be an infected area;

(b) Prohibiting or restricting, except with the approval of an inspector and upon or subject to any conditions he may think fit to impose, the introduction into an infected area or the removal from an infected area of any conveyance, machinery, tools, equipment, or other thing or any plant material or any form of fungus, bacterium, virus, or micro-organism, or any insect, mite, or other invertebrate animal, or soil;

(c) Prescribing the treatment and measures to be adopted in respect of any plant material which is diseased, pestiferous, or infected, and requiring the cleansing or disinfecting of soil, conveyances, machinery, tools, equipment, clothing, footwear, or other things which may have come into contact with that plant materials;

(d) Providing for the destruction or special treatment of any specified plant material and the special treatment of land and if eradication of a disease or pest is involved, for the payment of compensation for the destruction or treatment at such rates as may be fixed by the regulations;

(e) Prescribing the manner in which plant material, soil and packages shall be treated, cleansed, destroyed or otherwise disposed of.

#### **PART IV PLANT CONTROL**

**15. Diseases and pests in crops for export** - (1) If the Director is of the opinion that any disease, pest or residue of toxic chemical is present in any crop which the grower intends to pack and submit for export, and that the disease, pest or residue is present to such a degree that it would be impossible by grading and post-harvest treatment to eliminate the disease or pest from all infected plant material or to reduce the residue to a level which in his opinion is permissible, he may by notice in writing direct the grower not to submit for export all or such portion of the crop or all or such portion of the property of the grower as the Director may decide.

(2) Any grower or any other person who, contrary to any such notice, packs or submits any crop for export commits an offence against this Act.

**16. Regulations** - The Head of State, acting on the advice of Cabinet, may from time to time make regulations for all or any of the following purposes:

- (a) Providing for a system of grading, packing, and packaging plant material in accordance with grades and methods and types of packing to be determined from time to time by the Director;
- (b) Prescribing standard packages for specific kinds of plant material intended for export or for sale in Western Samoa;
- (c) Providing for the branding or marking of packages of specific kinds of plant material, and for the registration of brands and marks;
- (d) Prescribing the conditions under which any package or case may be used more than once for the carriage of fruits or plant material;
- (e) Providing for the registration of nurseries subject to prescribed terms and conditions;
- (f) Providing that any person who sows or plants the seed or viable portion of any specified plant shall give such information or make such returns in relation thereto as may be specified in the regulations;
- (g) Declaring any specified area to be a plant or fruit growing district under a name to be specified in the regulations;
- (h) Prescribing modes of treatment of plant material before export, and prescribing such other things as shall be required of plant material for export;
- (i) Prohibiting or restricting the export of any plant material.

## **PART V ADMINISTRATION**

**17. Appointment of officers** - (1) There shall be appointed from time to time under the Public Service Act 1977:

- (a) A Chief Quarantine Officer, who shall have such functions and powers as are conferred upon him by this Act or the regulations;
- (b) Such inspectors or temporary inspectors as may be necessary for the purposes of this Act.

(2) Temporary inspectors may be full-time officers of the Department or persons other than full-time officers of the Department.

(3) Temporary inspectors shall perform their duties only when so directed by the Director.

(4) If any person who is appointed as a temporary inspector is a full-time officer of the Department he shall not be entitled to any additional remuneration in respect of his appointment under this subsection.

**18. Powers of inspectors** - (1) Every inspector may, for the purposes of this Act, detain, open, inspect, examine, sample, submit for diagnostic examination, direct reshipment, direct removal to a quarantine area, remove for treatment, treat, quarantine, disinfect, or destroy or otherwise dispose of any plant material, beneficial organism, disease, pest, soil, package, material, article of luggage, or other thing, in such manner as he thinks fit:

**PROVIDED THAT** no inspector shall direct reshipment or destroy or otherwise dispose of

anything under this section, without the concurrence of the Director.

(2) The Director and the Chief Quarantine Officer shall have all the powers of an inspector under this Act or the regulations.

**19. Rights of entry** - Every inspector may, for the purpose of this Act and on producing (if so required) due evidence of his appointment, enter at any time upon any land or into any conveyance; but no inspector shall enter any dwelling house pursuant to this section unless authorised in that behalf by a warrant under the hand of a Magistrate, who shall not grant the warrant unless he is satisfied that that inspector has reasonable grounds for requiring entry to the dwelling house.

**20. Liability for causing inspector to incur expense** - If any person, by failing to comply with or acting contrary to this Act, causes an inspector or an employee in the Public Service to incur an expense that he would not otherwise have incurred, that person shall reimburse the Government for the full amount of that expense reasonably properly incurred and that amount shall be recoverable from him as a debt due to the Government.

**21. Obstructing or hindering inspector an offence** - Every person commits an offence against this Act who directly or indirectly obstructs, hinders, interrupts, threatens or assaults an inspector in the performance of his duty under this Act.

## **PART VI MISCELLANEOUS PROVISIONS**

**22. Giving notice under this Act** - Any notice or direction which may be given to any occupier of land or other person by an inspector in the performance of his duties under this Act may be given by delivering the notice or direction to the occupier or other person or by leaving it or posting it addressed to him at his usual or last known place, of abode or business in Western Samoa or if he is unknown or cannot be found in Western Samoa and the notice or direction relates to land by affixing a copy of the notice or direction in some conspicuous place on the land to which the notice relates.

**23. Dispatch of plants to Western Samoa** - (1) No person shall be deemed to have introduced into Western Samoa plant material received by him from beyond Western Samoa without his consent given before dispatch of the material to Western Samoa.

(2) Notwithstanding that any person receives plant material from beyond Western Samoa without his consent given before dispatch of the material, he shall, on receipt of the plant material, immediately notify the Department or an inspector and carry out to the satisfaction of the Department or inspector such directions as the Department or inspector may give as to the destruction, disposal, or treatment of the plant material.

**24. Existence of disease** - (1) For the purpose of this Act, the Director may at any time issue an instruction in writing:

- (a) Stating that any disease or pest is or is not known or believed to exist in any place, country or region;
- (b) Determining the classification, name or identity of any plant material, disease or pest;

(c) Designating any organism, other than a vertebrate animal, recognised to be beneficial to plants generally or to any kind of plants, or to any living process carried on by plants as a beneficial organism.

(2) Every instruction given under this section shall, for the purposes of this Act, be conclusive until revoked or amended in writing by the Director.

**25. Erroneous and knowingly false declarations** - Every person who makes any false declaration or gives any certificate under this Act which is erroneous in any material particular commits an offence against this Act.

**26. Offences** - Every person commits an offence against this Act who directly or indirectly by himself, his servant or agent:

(a) Possesses, keeps, retains, sells, offers or exposes for sale, carries, conveys, gives or distributes in any manner, any plant material, soil, package, fungus, bacterium, virus, insect, mite or other invertebrate animal, or other thing whatsoever, which to his knowledge has been introduced into Western Samoa contrary to this Act;

(b) Possesses, keeps, retains, sells, offers or exposes for sale, carries, conveys, gives or distributes in any manner, any plant material or beneficial organism which to his knowledge is suffering from a serious disease or pest, or from a disease or pest which an inspector has by notice in writing directed him to control;

(c) Possesses, keeps, retains, sells, offers or exposes for sale, carries, gives or distributes in any manner, any soil, package or other thing whatsoever, which to his knowledge is infected by a serious disease or pest or is infected by a disease or pest which an inspector has by notice in writing directed him to control;

(d) Does any other act in breach of this Act; or

(e) Fails to observe and perform any duty or obligation imposed on him by this Act.

**27. Fines** - Every person who commits an offence against this Act is liable on conviction to a fine not exceeding \$500.

**28. No right to compensation** - Subject to the provisions of this Act, no person shall have any right to compensation, nor shall any liability be imposed upon the Government or any person by reason of the exercise of powers conferred by this Act.

**29. Regulations** - (1) The Head of State, acting on the advice of Cabinet may from time to time make regulations for all or any of the following purposes:

(a) Prescribing the matters for which fees shall be payable under this Act, fixing the amount of those fees, and the mode of their payment and recovery;

(b) Providing for such matters as are contemplated by or are necessary to give full effect to the provisions of this Act and for its administration.

(2) Any regulations under this Act may provide that it shall be necessary to obtain a permit from the Minister, the Director, the Chief Quarantine Officer, the holder of any specified office in the Public Service or any inspector, for the introduction into Western Samoa of any

plant material, beneficial organism, package, soil, fungus, bacterium, virus, or micro-organism or anything and that the Minister, the Director, Chief Quarantine Officer the holder for the time being of the office, or the inspector may in his discretion refuse any application for a permit or may grant the application wholly or partly and either unconditionally or on or subject to such conditions as he thinks fit.

(3) Any regulations under this Act may confer on the Minister, the Director, the Chief Quarantine Officer or any inspector, power to issue, in such manner as may be prescribed, instructions, orders, requirements, permits, authorities or notices for the purposes of this Act, whether by way of written instrument or by oral direction as the regulations shall provide.

(4) Any regulations under this Act may be so made as to apply generally throughout Western Samoa or within any specified part or parts thereof.

**30. Other legislation not affected** - Nothing in this Act shall derogate from any provisions of the Bunchytop Act 1965; the Cocoa Disease Ordinance 1961, the Rhinoceros Beetle Ordinance 1954 and the Noxious Weeds Ordinance 1961 or any regulations made under that Act or those Ordinances.

**31. Repeals, savings and amendment** - (1) The Plants and Soil Importation (Disease Control) Ordinance 1950 is repealed.

(2) All subsidiary legislation made under the Plant and Soil Importation (Disease Control) Ordinance 1950 and in force immediately prior to the coming into operation of this Act, shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act.

(3) The Agriculture, Forests and Fisheries Ordinance 1959 is amended by inserting in the Schedule to the Ordinance after the words "The Bunchytop Ordinance 1965" the following:

"The Plants Act 1984"

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The Plants Act 1984 is administered in the Department of Agriculture, Forest and Fisheries