

# THE PLANT PROTECTION ACT 2006

Act No. 10 of 2006

Proclaimed by [[Proclamation No. 17 of 2006](#)] w.e.f 1<sup>st</sup> November 2006

I assent

**SIR ANEROOD JUGNAUTH**

President of the Republic

30 June 2006

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## **An Act**

**To make provisions for the prevention, control and elimination of plant pests, to protect plant resources, to establish phytosanitary measures and to regulate other matters connected therewith and incidental thereto**

ENACTED by the Parliament of Mauritius, as follows –

### **PART I - PRELIMINARY**

#### **1. Short title**

This Act may be cited as the **Plant Protection Act 2006**.

#### **2. Interpretation**

In this Act, unless the context otherwise requires -

“beneficial organisms” mean organisms, including fungi, bacteria, viruses, virus-like organisms or invertebrate or vertebrate animals, used specifically for -

- (a) control of pest;
- (b) pollination;
- (c) for the commercial production of agricultural products; or
- (d) other purposes beneficial to agricultural production;

“consignment” means a quantity of plants, plant products or regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate;

“container” means a box, bag or other receptacle in which plants, plant products or any object or material capable of harbouring pests, have been or are being transported;

“conveyance” means any ship, vessel, aircraft, train, vehicle, cart, container, animal or other animated or inanimate object that can convey plants, plant products, pests, soil or regulated articles from one place to another;

“detention” means to keep a consignment in custody or confinement for phytosanitary reasons;

“emergency action” means any urgent phytosanitary action undertaken in a new or unexpected phytosanitary situation without full technical justification;

“GMO” means genetically modified organism and has the same meaning as in the Genetically Modified Organism Act 2004;

“importer” means any person who, whether as owner, consignor, consignee, agent, broker or otherwise, is in possession of, or is in any way entitled to the custody of any plant, plant product or other regulated article landed or likely to be landed in Mauritius from another country;

“infestation” means a condition whereby the land, plant, soil or other matter or thing in respect of which the term is used supports a pest physically, nutritionally or in any other way or a condition whereby the presence of the pest in or on the land, plant, soil or other matter or thing in question exposes any plant either directly or indirectly to pest infestation;

“Minister” means the Minister to whom responsibility for the subject of agriculture is assigned;

“NPPO” means the National Plant Protection Office established under section 4;

“officer” means an officer of the NPPO designated as such under section 4(2);

“owner”, in relation to a thing, includes any person having for the time being the possession, custody or control thereof;

“packaging” means any material in which any plant, plant product or regulated article is covered, enclosed, contained or packed;

“pest” means any living stage of any insect, mite, nematode, slug, snail, protozoa, bacterium, fungus, plant or any reproductive part thereof, virus, phytoplasma, or any infectious agent capable of causing damage to any plant, planting material or plant product;

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

“phytosanitary certificate” means a certificate issued under section 22;

“phytosanitary measure” means any measure taken for the prevention of the introduction or spread of quarantine pests, or limiting the adverse economic impact of regulated non-quarantine pests;

“plant” means any living plant and parts thereof, including seeds and germplasm;

“plant import permit” means a permit issued under section 19;

“plant product” means any product derived from plants, either in their natural, manufactured or processed form;

“point of entry” means an airport, sea port or land border point;

“premises” means land or any building or other structure situated on land;

“quarantine” means the confinement of plants, plant products or other regulated articles for observation and research or for further inspection, testing and treatment;

“quarantine area” means an area declared as such under section 10;

“quarantine pest” means a pest listed in Part I of the Schedule;

“re-export phytosanitary certificate” means the certificate issued under section 23;

“regulated article” means storage place, packaging, conveyance, container, soil and other organism, object or material capable of harbouring or spreading pests, requiring phytosanitary measures and may include a pest, beneficial organisms or GMO;

“regulated non-quarantine pest” means a pest listed in Part II of the Schedule;

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

"soil" includes earth, water, peat, manure, compost, sand, clay and any other substance capable of supporting plant life, or transmitting any 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;

“water” means water as a medium, including ballast water, capable of harbouring marine and aquatic invasive alien species.

### **3. Application of this Act**

This Act shall bind the State.

## **PART II – NATIONAL PLANT PROTECTION OFFICE**

### **4. National Plant Protection Office**

- (1) There shall be a division of the Ministry which shall -
  - (a) be known as the National Plant Protection Office or the NPPO;and

- (b) be the authority responsible for the enforcement of this Act in Mauritius.
- (2) The NPPO shall consist of such officers as may be designated by the Officer in Charge of the Ministry.
- (3) The Officer in Charge of the Ministry shall be responsible for the management and administration of the affairs of the NPPO.

## **5. Functions and powers of National Plant Protection Office**

- (1) The functions of the NPPO shall be to -
  - (a) implement the obligations of Mauritius under the International Plant Protection Convention;
  - (b) issue phytosanitary certificates;
  - (c) protect endangered areas and designate, maintain, and survey pest free areas and areas of low pest prevalence;
  - (d) provide information to other countries concerning phytosanitary measures applied, either through pest risk analysis or by reference to applicable international standards;
  - (e) distribute information concerning regulated pests and the means of their prevention and control;
  - (f) propose, review and enforce phytosanitary measures;
  - (g) notify phytosanitary measures to other countries in accordance with international obligations;
  - (h) whenever appropriate, represent Mauritius in bilateral, regional, and international fora related to phytosanitary matters;

- (i) advise the Minister on matters relating to the containment and eradication of regulated pests as it considers necessary or as may be requested by the Minister;
  - (j) carry out such other functions as may be required to give effect to this Act.
- (2) The NPPO shall have such powers as are necessary to discharge its functions under this Act.

## **6. Identity card**

- (1) The Officer in Charge of the Ministry shall issue an identity card to every officer of the NPPO.
- (2) The identity card shall -
- (a) contain a recent photo of the officer;
  - (b) contain a copy of the officer's signature; and
  - (c) state an expiry date for the card.

## **7. Display of identity card**

- (1) Subject to subsection (2), in the exercise of any power under this Act, in relation to another person, an officer shall produce his identity card for the other person's inspection before exercising the powers.
- (2) Where it is not practicable to comply with subsection (1), the officer shall produce his identity card for the other person's inspection at the first reasonable opportunity.

## **8. Surrender of identity card**

- (1) Every officer shall, if so requested by the Officer in Charge of the Ministry or where he leaves the NPPO, forthwith surrender his identity card.
- (2) Any officer who fails to surrender his identity card in the circumstances referred to in subsection (1) shall commit an offence.

### **PART III - CONTAINMENT AND ERADICATION OF PESTS**

#### **9. Duty on owner of premises**

Every owner of premises who suspects or becomes aware of the presence of a regulated pest on his premises shall –

- (a) immediately notify the NPPO; and
- (b) send in writing a notice to the NPPO, within 7 days of his suspicion or of becoming aware of the presence of the regulated pest.

#### **10. Pest quarantine area**

- (1) The Minister may, after consultation with the NPPO, declare any premises that are affected or suspected of being affected with quarantine pest infestation to be a pest quarantine area.
- (2) A declaration under subsection (1) shall be published in the Gazette and may define the boundaries of the declared pest quarantine area.
- (3) An officer may, upon declaration of a pest quarantine area, take immediate measures to -
  - (a) prohibit the movement of people, conveyances, plants, plant products or other regulated articles from or to a specified location;

- (b) prohibit the planting or replanting of a specified location; and
- (c) take any other measure which he considers necessary under the circumstances.

#### **11. Revocation of quarantine areas**

Where, upon the advice of the NPPO, the Minister is of the opinion that -

- (a) the quarantine pest in respect of which a quarantine was declared is no longer present in the quarantine area; and
- (b) it is no longer appropriate for the quarantine to be maintained in respect of part or all of the infested area,

he shall revoke or modify the quarantine declaration and give notice of such revocation or modification in the Gazette.

#### **12. Control measures for quarantine areas**

- (1) An officer may, where he reasonably believes that any premises within the quarantine area is being infested by a quarantine pest, exercise such powers as are assigned to him under this Act and require by way of notice -

- (a) the owner of the premises;
- (b) the owner of premises in the vicinity,

to take, within such period of time as may be specified in the notice, such measures as he thinks fit to eradicate, contain or restrict the spread of the quarantine pest.

- (2) The officer may, in the notice referred to in subsection (1), specify that

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- (a) any treatment or destruction of plants or plant products and other regulated articles or other matter or things shall be carried out within a specified period of time or under the direction of an officer;
  - (b) the costs of the treatment or destruction performed by, or under the direction of an officer, shall be at the cost of the owner of the premises.
- (3) Where there is no person in actual occupation of any premises, or where the occupier cannot be found, service of any notice under this Act may be made by affixing the same in some conspicuous place on the premises, and such affixing shall be deemed to be sufficient service.
- (4) Where the urgency of the situation so requires or the owner of any premises fails to comply with a notice issued under this section, the NPPO may take such measures as are appropriate to eradicate, contain or restrict the spread of the quarantine pest.
- (5) Any cost incurred under subsection (4) may be claimed from the owner of the premises.

### **13. Declaration of pest free areas**

- (1) Where the NPPO is satisfied that a pest is not present in an area, it shall -
  - (a) adopt phytosanitary measures to keep the area free of pest; and
  - (b) institute a monitoring system to verify that that condition is maintained.
- (2) The NPPO may declare an area being monitored under subsection (1) as a pest-free area.

#### **14. Declaration of areas of low-pest prevalence**

- (1) Where the NPPO is satisfied that a regulated pest occurs at low levels in an area, it shall -
  - (a) adopt such phytosanitary measures as are appropriate to keep the pest levels low; and
  - (b) institute a surveillance system to verify that the pest levels remain low.
- (2) The NPPO may declare an area being monitored under subsection (1) as an area of low-pest prevalence.

#### **15. Pest surveillance programme**

- (1) The NPPO may, for the purpose of confirming the presence or ascertaining the extent of the presence of a pest to which the programme applies, in respect of a designated area, conduct a pest surveillance programme.
- (2) The NPPO shall as far as possible ensure that timely information about the nature and extent of the programme is advertised to persons likely to be affected by the programme.
- (3) No pest surveillance programme shall be conducted without the approval of the Minister and unless notice of the pest surveillance programme has been published in the Gazette.

#### **16. Specific pest infestation**

- (1) Subject to subsection (3), an officer may, for the purpose of controlling or removing a regulated pest existing in or upon any premises or for the purpose of preventing the spread of any existing regulated pest to any premises, issue a notice in writing directing the owner of the premises forthwith or within a time specified by the officer to take such measures as he thinks fit, including to -

- (a) quarantine, upon conditions as directed, all or any part of the premises in question;
  - (b) destroy any regulated pest thereon or any plants, packages or other matter or thing that are infested with a regulated pest;
  - (c) treat as directed all or any part of the premises or any plant, plant products soil or other matter or thing thereon.
- (2) Any direction given under subsection (1) may include -
- (a) a direction that the destruction must be performed in accordance with the directions of the officer;
  - (b) a direction that the destruction shall be performed by, or under the direction of the officer.
- (3) An officer shall not give a direction under subsection (1), ordering the destruction of any part of a healthy crop that is not infested with a regulated pest unless he considers it necessary to do so in order to prevent, control or remove pest infestation of plants.
- (4) Where any part of a healthy crop that is not infested is destroyed pursuant to subsection (3), the owner of the crop shall be paid such compensation as may be prescribed.
- (5) No compensation shall be paid to a person who commits an offence under this Act.
- (6) For the purposes of this section, "crop" means a plant that is intentionally grown for its consumption as food or fodder or for its resale or the sale of its products or for a commercial use.

**17. Imminent risk of infestation on premises not under quarantine**

- (1) An officer may, where he is satisfied on reasonable grounds that there is an imminent risk of a pest infestation on any premises, other than premises in a pest quarantine area, exercise such powers as are assigned to him under this Act, to avoid the risk of a pest infestation.
- (2) In considering whether there is an imminent risk of pest infestation on any premises, the officer shall have regard to -
  - (a) the proximity of the premises to a known infestation of the pest; and
  - (b) the ability of the pest to spread.

#### **PART IV – IMPORT AND EXPORT**

##### **18. Phytosanitary measures for imports**

- (1) The NPPO may, in relation to the importation of plants, plant products and other regulated articles -
  - (a) establish phytosanitary requirements;
  - (b) refuse entry to or detain, any plant, plant product or other regulated article that does not comply with the phytosanitary requirements established under paragraph (a);
  - (c) require the -
    - (i) treatment;
    - (ii) destruction; or
    - (iii) removal from the territory of Mauritius,

of any plant, plant product or other regulated article that does not comply with the phytosanitary requirements established under paragraph (a);

(d) designate certain places as plant quarantine stations where plants, plant products or other regulated articles may be kept for phytosanitary observation, research, inspection, testing, treatment, detention or destruction; or

(e) take such other action as may be prescribed.

(2) The NPPO shall publish the phytosanitary requirements established under subsection (1) in the Gazette.

## **19. Import requirements**

(1) (a) Any person who imports or causes the importation of a plant, plant product or other regulated article shall apply for a plant import permit from the NPPO, in such manner as may be prescribed.

(b) The NPPO may issue a plant import permit upon the payment of such fee as may be prescribed.

(c) Where the NPPO rejects an application it shall notify, in writing, the applicant of the reasons for the rejection.

(2) Any importation made under subsection (1) shall be made through the point of entry designated in the plant import permit, and shall be accompanied by a phytosanitary certificate issued not more than 14 days prior to shipment, by the plant protection authority of the exporting country.

(3) The Minister may, after consultation with the NPPO, prohibit or regulate the importation of any plant, plant product or other regulated article, in such manner as may be prescribed.

- (4) For the purposes of this section, "importation" includes landing or off-loading from any conveyance of any plant, plant product or other regulated article in transit through Mauritius.

## **20. Inspections**

- (1) Any plant, plant product and other regulated article imported into Mauritius shall, upon importation, be subject to inspection at the point of entry, or at its final destination, by an officer.
- (2) An inspection under subsection (1) shall be carried out at such time and be subject to such fees as may be prescribed.
- (3)
  - (a) Where the imported plant, plant product or other regulated article complies with the requirements under this Act, the officer shall authorise delivery of the imported product by written notice to the importer.
  - (b) Where an officer determines that the imported product fails to comply with the requirements of this Act, or otherwise presents any risk for the introduction or spread of pests, he shall serve a written notice to the importer stating the reasons for his determination.
- (4) Where an officer has made a determination under subsection (3)(b), he may -