

The Plant Diseases Act 1913.

24 February 1913

1. LEGISLATIVE TEXTS

The Plant Diseases Act 1913. - 24 February 1913. - Laws of the Sudan, 5th edition revised as at 31 December 1975, Vol. I (1901 - 1925), p. 70.

2. SCOPE AND STRUCTURE OF THE LEGISLATIVE TEXTS

As indicated in the complete title, the purpose of the Act is to prevent the introduction of insect pests and plant diseases from places outside the Sudan and to provide for the control and eradication of insect pests and plant diseases within the Sudan.

The 1913 Act deals with the following subjects:

Art. 1: Short title.

Art. 2: Interpretation.

Art. 3: Articles exempt from the Act.

Art. 4: Special powers of Under-Secretary.

Art. 5: Appointment of inspectors and plant quarantine officers.

Art. 6: Under-Secretary to have power of inspector.

Art. 7: Occupiers to eradicate proclaimed diseases.

Art. 8: Powers of entry and inspection.

Art. 9: Seizure of articles introduced contrary to regulations.

Art.10: Cost of disinfection.

Art.11: Notice, how delivered.

Art.12: Immediate destruction of plants infected with proclaimed diseases.

Art.13: Offences.

Art.14: Penalties.

Art.15: Trial of offences.

Art.16: Fees.

Art.17: Issue of regulations.

Art.18: Protection of public servants.

Art.19: Government not to be liable for loss or damage.

Two schedules are added; the first lists the proclaimed diseases and the second sets out the fees payable for different operations.

3. BASIC CONCEPTS AND TERMS

The Act gives the definitions of "disease", "diseased", "infected", "inspector", "magistrate", "occupier", "package", "plant", "plantation", "proclaimed disease" and "Under-Secretary".

"Plant" means any tree, shrub or vegetation and the fruits, leaves, cuttings, bark and any part or product thereof whatever, whether severed or attached, but shall not include grain or seed of any kind unless the same is specifically named in an order or regulation made under the Act or is cottonseed grown outside Egypt and the Sudan 2/.

4. INSTITUTIONAL ORGANIZATION

The Under-Secretary of the Ministry of Agriculture, Food and Natural Resources shall enforce the plant protection laws. He makes regulations concerning the introduction, inspection, treatment, destruction and disposal of specified plants. When the regulations are published in the Gazette, they shall have effect as if part of the Plant Diseases Act 3/.

After consultation with the pesticides Committee, the Under-Secretary may make the regulations he may deem necessary for the implementation of the provisions of the Pesticides Act. He therefore makes regulations concerning the degree of toxicity and risks of the pesticides, the

distribution and use, storage and transportation thereof, etc. 4/, and may appoint competent persons to supervise the use and circulation of pesticides 5/.

By order published in the Gazette, the Under-Secretary may prohibit absolutely or except in accordance with regulations issued under the Act, the introduction into the country of plants or other thing that he considers likely to produce any disease, he may appoint quarantine grounds, declare disease or remove any disease from the category of proclaimed disease 6/. The Under-Secretary may himself exercise the powers of an inspector appointed under the Act 7/.

Inspectors and plant quarantine officers are appointed by the Under-Secretary. An inspector is empowered to enter into any conveyance or upon any plantation, land or building and on board any ship for the purpose of inspecting any plants and the packages containing the same 8/. He may remove, treat, disinfect, destroy or otherwise dispose of any plants or packages as he thinks fit. He may order the detention of any plant or package that he suspects of being infected or that is likely to introduce or spread disease 9/. Inspectors and plant quarantine officials may also seize any matter and products introduced into the country contrary to the regulations 10/.

5. MEASURES OF PROTECTION WITHIN THE COUNTRY

5.1 General preventive measures

By Order published in the Gazette, the Under-Secretary may prohibit the introduction into the country of any plant, fungus, parasite, insect or any other thing which, in his opinion, is likely to produce a disease. He may also prohibit the bringing into any portion of the Sudan from any other portion of the Sudan of any plant, fungus, parasite, insect or other thing which is diseased or is in his opinion likely to spread disease 11/. By Order published in the Gazette, the Under-Secretary may extend or amend Schedule I of the 1913 Act and declare any disease to be a proclaimed disease or remove any disease from the category of proclaimed disease 12/.

5.2 Treatment of pests

Under the Act, the occupier of every plantation shall eradicate any proclaimed disease and prevent the spread thereof. When a proclaimed disease is detected, the occupier of the plantation shall within 48 hours of discovering its existence, send notice thereof to the Regional Crops protection Officer or to the Executive Officer having jurisdiction over the district in which the plantation is situated. "Sheikhs" and "omdas" shall report the presence of any proclaimed disease which comes to their knowledge to the Regional Crops Protection Officer or the Executive Officer. These provisions apply only in districts within which it shall be declared applicable by an order of the Under-Secretary published in the Gazette or, in the case of urgency, by public notice issued by the Senior Inspector of Agriculture of the province and only with respect of such disease as shall be expressly mentioned in such order or notice 13/.

If any inspector or plant quarantine officer considers any plants or packages to be diseased or infected, he may give notice in writing to the owner of or person in charge of the conveyance, plantation, land, building or ship, so that they may take such measures as are necessary to eradicate or prevent the spread of the disease. If such owner or person in charge of the things or products affected fails to do so to the satisfaction of the inspector or plant quarantine officer, such inspector or plant quarantine officer may do the same at the expense of the person who has failed to comply 14/.

If, after inspection, the inspector considers the cotton plants to be so seriously infected or diseased by cotton worm (*Prodenia littoralis*) and the Mexican boll weevil (*Anthonomus grandis*) as to necessitate for purposes of eradication the employment of more persons than the inspector has at his disposal the inspector may call for every person capable of labour and resident within a reasonable distance of the locality in question to assist on the eradication of the pest. In the exercise of his powers any inspector or plant quarantine officer may remove, treat, disinfect, destroy or otherwise dispose of any plant or package 15/.

The Regional Crops Protection Officer may order or prescribe the immediate destruction of plants that are infected with any proclaimed disease 16/.

The regulations made by the Under-Secretary may define the manner in which diseased plants and infected packages shall be treated, cleansed, destroyed or otherwise disposed of 17/. The regulations may also prescribe prohibiting the use of packages that have already been used as such 18/.

The Government shall not be responsible for any loss or damage caused to any plantation, plant or package as a result of any operation done in accordance with the provisions of the Act 19/.

The cost of disinfection and destruction of any plantation, plant or package, except the cost of inspection and mere detention in quarantine, shall be paid by the owner, occupier, consignee or addressee thereof. In default of payment, costs may be recovered by action in a Province Court before a Province Judge or District judge of the first grade. If the owner, occupier or consignee fails to pay within two months of the service upon him of a formal notice to pay, the Under-Secretary may order that payment be secured by the sale of the disinfected plants or packages 20/.

5.3 National quarantine measures

By Order published in the Gazette, the Sub-Secretary may appoint quarantine grounds where plants or packages may be detained for the purpose of being inspected, disinfected, destroyed or otherwise disposed of 21/.

Any inspector or plant quarantine officer may order the detention of any plant or package which he suspects to be infected or apprehends may introduce or spread disease. The inspector or plant quarantine officer may cause the same to be removed or detained in a quarantine ground or another convenient place for examination, disinfection or to be dealt with otherwise under the Act 22/.

5.4 Transport and trade of plants and plant products

The Act contains no provisions on this subject.

5.5 Control of phytopharmaceutical products for agricultural use

This subject is dealt with in the Pesticides Act No. 37 of 1974. Pesticides must be registered with the Pesticides Committee. A copy of the register must be held by the Minister of Agriculture, Food and Natural Resources. Before being entered in the register, the pesticide shall undergo scientific experiments for a period of not less than one year 23/.

Marketing of pesticides is prohibited except under a licence issued by the Minister. The permit is valid for five years and may be renewed at the request of the applicant and on payment of the prescribed fees.

Every person licenced to deal in pesticides shall keep a numbered register stamped with the seal of the committee for the registration of commercial dealings in pesticides. The register shall be kept for five years 24/.

No pesticide shall be imported, unless it has been registered and is accompanied by a certificate of conformity issued by the committee. Research institutions and firms designated by the Minister may import or manufacture unregistered pesticides in such quantities as may be necessary for scientific research purposes 25/.

Pesticides manufacture is subject to the issue of a licence by the Minister and payment of fixed fees 26/.

6. PROTECTION INTERNATIONAL MEASURES

Sudan became a member of the International Plant Protection Convention when it deposited its instrument of adherence on 16 July 1971.

6.1 Importation

The Under-Secretary may by Order published in the Gazette, appoint any places through which plants or any specific plant must necessarily be imported 27/.

The Under-Secretary may issue regulations prescribing that notice be given by any person introducing specified plants into the Sudan, through the post or otherwise, and to whom and in what manner the notice is to be given, prescribing the manner in which the plants shall be examined at the place of entry or before delivery through the post 28/.

Inspectors, plant quarantine officers and customs officers are empowered to seize any plant, parasite, insect or other thing introduced or attempted to be introduced into the country contrary to any order or regulation issued under the Act, and any package containing the same as well as objects with which the same have been in contact. Posts and Telegraph officials and Customs officials shall assist in carrying out these regulations 29/.

6.2 Exportation and transit

The Act contains no provisions on this subject.

7. INCENTIVES FOR PLANT PROTECTION

The provisions examined provide no incentives for plant protection.

8. OFFENCES AND PENALTIES

A person commits an offence against the Act who:

- (1) Sells, offers or exposes for sale or distributes any plant or package which to his knowledge is infected with any proclaimed disease, and brings or suffers the same to be brought or removes or suffers the same to be removed from any land or building, except under the direction of an inspector or plant quarantine officer 30/.
- (2) Sells, offers or exposes for sale or distributes any plant or thing which to his knowledge has been introduced into the country contrary to any order or regulation issued under the Act, and brings or suffers the same to be brought or removes or suffers the same to be removed, except under the direction of an inspector or plant quarantine officer 31/.

To do or to attempt to do any other act in breach of the Act or of any order or regulation made thereunder, or to fail to observe any duty imposed thereby 32/.

Offenders are liable to a fine not exceeding 20 Sudanese pounds or in default to a term of Imprisonment not exceeding three months 33/.

9. LEGAL AND ADMINISTRATIVE PROCEDURES

Offences under the Act may be tried summarily or non-summarily by a Magistrate of the first or second-class under the Code of Criminal Procedure, 1974 but no procedure shall be initiated without the consent of the Under-Secretary or an inspector or some person authorized by the Under-Secretary 34/.

1/ The pesticides Act No. 37 of 1974. - The Democratic Republic of the Sudan Gazette No. 1162, Legislative Supplement No. 1, 15 June 1974, p. 155.

2/ Act 1913, Art. 2.

3/ Act 1913, Art. 17.

4/ Pesticides Act, Art. 2.

5/ Ibid., Art. 16.

6/ Act 1913, Art. 4.

7/ Ibid., Art. 6.

8/ Ibid., Arts. 5 and 8.1.

9/ Act 1913, Art. 8.

10/ Ibid., Art. 9.

11/ Act 1913, Art. 4(a).

- 12/ Ibid., Art. 4(3). Schedule I lists five types of proclaimed diseases and all the insects or microbes that are injurious to fruit trees or other trees and plants of economic value.
- 13/ Act, 1913, Art. 7.
- 14/ Ibid., Art. 8.2 and 3.
- 15/ Act, 1913, Art. 8.4 and 5.
- 16/ Ibid., Art. 12.
- 17/ Ibid., Art. 17(c).
- 18/ Ibid., Art. 17(d).
- 19/ Ibid., Art. 19.
- 20/ Act, 1913, Art. 10.
- 21/ Ibid., 4(c).
- 22/ Act 1913, Art. 8.6.
- 23/ Pesticides Act, Arts. 5 to 8.
- 24/ Ibid., Arts. 12 and 13.
- 25/ Act, 1913, Arts. 10 and 11.
- 26/ Ibid., Arts. 14 and 15.
- 27/ Ibid., Art. 4(b).
- 28/ Ibid., Art. 17(a) and (b).
- 29/ Act, 1913, Art. 9.
- 30/ Ibid., Art. 13(a).
- 31/ Act, 1913, Art. 13(c) and (d).
- 32/ Ibid., Art. 14.
- 33/ U.S. \$ 1 = 1.30 pounds.
- 34/ Act, 1913, Art. 15.