



LAWS OF KENYA



## **PLANT PROTECTION ACT**

CHAPTER 324

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**CHAPTER 324**

**PLANT PROTECTION ACT**

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## CHAPTER 324

## PLANT PROTECTION ACT

[Date of Commencement: 28th August, 1937.]

**An Act of Parliament to make better provision for the prevention of the introduction and spread of disease destructive to plants**

[Act No. 24 of 1937, Cap. 178 (1948), Act No. 16 of 1954, G.N 1721/1955, L.N. 173/1960, Act No. 28 of 1961, L.N. 2/1964, Act No. 14 of 1971.]

**1. Short title**

This Act may be cited as the Plant Protection Act.

**2. Interpretation**

In this Act, except where the context otherwise requires—

“**animal organism**” means any animal organism, in whatever stage of existence such organism may be;

“**disease**” means any abnormal condition of plants communicable or believed to be communicable by the transfer of a causative agent or by the propagation of the affected plant which the Minister may, by order, declare to be a disease for the purposes of this Act;

“**disinfect**” includes “**disinfest**”;

“**infected area**” means any area or place in which a pest or disease exists and which has been declared by the Minister, by order, to be an infected area for the purposes of this Act;

“**inspector**” means the Director of Agriculture, and every officer of the Ministry of Agriculture authorized by the Director of Agriculture to act as an inspector, and any other person authorized by the Director of Agriculture, with the approval of the Minister, by notice in the *Gazette* to act as an inspector;

“**pest**” means any of the following descriptions of pests which the Minister may, by order, declare to be a pest for the purposes of this Act, that is to say—

- (a) any animal or vegetable organism inimical to the growth or existence of living plants or injurious to plant products; and
- (b) any other agent capable of producing a communicable disease of plants;

“**plant**” means any member of the vegetable kingdom, whether living or dead, and includes any part of a plant, whether severed from the plant or not;

“**vegetable organism**” means any vegetable organism, in whatever stage of existence such organism may be;

“**vehicle**” includes any motor vehicle, railway vehicle or carriage;

“**vessel**” includes any ship, a boat and every other kind of vessel used in navigation either on the sea or in inland waters.

[Act No. 28 of 1961, Sch.]

**3. Rules for prevention or spread of pests, etc.**

The Minister may make rules for the purpose of preventing and controlling attacks by or the spread of pests or diseases, and, in particular and without prejudice to the generality of the foregoing power, as to all or any of the following matters—

- (a) the disinfection, treatment, destruction and disposal of any unhealthy plant, or of any plant appearing to be infected with any pest or disease, or of anything whatever, whether of a nature similar to a plant or not, likely to infect any plant with any pest or disease;
- (b) the payment and recovery of fees for any disinfection or treatment carried out by any inspector, or for any services rendered by any inspector in connection with any such disinfection or treatment;
- (c) the prohibition, restriction and regulation of the removal or transport of any such plant or thing as aforesaid;
- (d) the control and destruction of any plant which has been declared to be a pest under this Act;
- (e) the prohibition, restriction or regulation of the cultivation and harvesting, either in the whole of Kenya or in any specified area, of any plant, where, in the opinion of the Minister, any pest or disease cannot otherwise be readily or adequately controlled or eradicated;
- (f) the reporting of the occurrence of any pest or disease specified in the rules, and the collection and transmission of specimens of any pest or diseased plant;
- (g) the methods of planting, cleaning, cultivating and harvesting to be adopted, and the precautions and measures to be taken by any person for the purpose of preventing or controlling attacks by, or the spread of, any pest or disease, or for the purpose of giving effect to any rules made under this Act;
- (h) the issue and revocation of licences for, and the inspection of, nurseries in which plants are reared for the purposes of sale, and the imposition of fees for such licences, and the regulation of the sale or removal of plants, whether reared in nurseries or not;
- (i) the disinfection, fumigation and treatment of any building, vehicle, aircraft or vessel suspected of being or having been used for the storage or conveyance of anything likely to infect any plant with any pest or disease;
- (j) the measures to be taken, including provision for the requisitioning on payment of chemicals, appliances, labour and other means, to secure the eradication of diseases and pests;
- (k) the quarantine of infected areas;
- (l) the prohibition, restriction and regulation of the tapping of plants of any description;
- (m) the imposition and provision of fines for any inspection, disinfection or treatment carried out in compliance with, or under any power conferred by, any order made under section 8.

[G.N. 1721/1955, Sch., L.N. 173/1960., Act No. 28 of 1961, Sch., Act No. 14 of 1971, Sch.]

**4. Duty of occupiers of land**

(1) Every occupier or, in the absence of the occupier, every owner of land shall take all such measures as he may be required to take by virtue of any rules made under section 3, and in addition such other measures as are reasonably necessary for the eradication, reduction or prevention of the spread of any pest or disease which an inspector may by notice in writing order him to take, including the destruction of plants, whether the same are infected with disease or not:

Provided that no order for the destruction of any living plants shall be made by an inspector under this subsection—

- (i) in the case of the special areas, without the approval in writing of the agricultural officer of the district;
- (ii) in the case of any other area, without the approval in writing of the Director of Agriculture or the Deputy Director of Agriculture.

(2) In the case of two or more joint occupiers or joint owners, each of them shall be deemed an occupier or owner for the purposes of this section.

(3) Where any such occupier or owner fails to take any of the measures which he is required to take under subsection (1), the inspector may, on giving not less than seven days' notice in writing of his intention so to do, cause such measures to be taken; and thereupon such occupier or owner shall, without prejudice to any penalty which he has incurred through such failure, be liable to pay the costs of such under taking, which shall be recoverable summarily as a civil debt.

**5. Right of entry and destruction of infectious articles**

Subject to any rules made under section 3, any inspector and his assistants may enter any land or building other than a dwelling house at all reasonable hours for the purpose of discovering pests or diseases in any plant, and of ascertaining whether any order of an inspector or any rules under section 3 have been complied with, and of causing measures to be taken under subsection (3) of section 4:

Provided that before entering upon any land or building under this section such inspector shall inform the owner or occupier if present.

**6. Power to order compensation.**

The Minister may, if he thinks fit, order compensation to be paid out of public funds to any person whose plants or other articles are destroyed pursuant to this Act.

[Act No. 28 of 1961, Sch.]

**7. Penalty for wilful introduction of pest or disease.**

(1) Any person who knowingly introduces any pest or disease into any cultivated land shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months.

(2) Any person who wilfully obstructs or interferes with any inspector, or an assistant of an inspector, in the execution of any duty or power imposed or given

by this Act or by any rules or order made thereunder shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

#### **8. Power to control importation or exportation of articles likely to spread pests or diseases**

(1) The Minister may, by order, prohibit, restrict or regulate the importation and exportation of any plants and the soil, packages, coverings or wrappings thereof and of any article or class of articles, whether of a nature similar to plants or not, and of any animals or insects likely to infect any plant with any pest or disease.

(2) Without prejudice to the generality of the foregoing power, an order under this section may—

- (a) authorize or require the inspection before importation or exportation of any plant or any article likely to infect any plant with any pest or disease, and the grant of a certificate as to the result of any such inspection;
- (b) direct or authorize the disinfection or treatment of any plant, and of any article likely to infect any plant with a pest or disease;
- (c) authorize the immediate destruction without compensation of any imported plant or article or any plant or article intended to be exported which on inspection appears to be infected with any pest or disease where, in the opinion of an inspector, disinfection is impracticable or will not be a complete safeguard, or the delay caused by disinfection would give rise to the risk of the introduction or spread of any pest or disease;
- (d) direct or authorize the disinfection or fumigation of any vehicle, vessel or aircraft suspected of harbouring any pest or article likely to infect any plant with disease;
- (e) prohibit the importation of plants or classes of plants except at specified ports or places of entry;
- (f) direct or authorize the detention of classes of imported plants in any specified place, and prescribe the precautions to be observed during such detention;
- (g) direct or authorize the detention of any plant, or any article likely to infect any plant with any pest or disease, which is intended to be exported, and prescribe the precautions to be observed to prevent the risk of the introduction or spread of any pest or disease by such plant or article;
- (h) prohibit or control the movement of plants or classes of plants likely to be infected with any pest or disease into or within any specified place or area.

(3) In this section, notwithstanding the provisions of section 2—

“**disease**” means any unhealthy condition of any plant; and

“**pest**” means any animal or vegetable organism inimical to any plant.

[Act No. 28 of 1961, Sch., Act No. 14 of 1971, Sch.]

**9. Penalty for breach of orders or rules.**

Any person who, without reasonable excuse, fails to comply with any lawfully given order of an inspector, or contravenes or fails to comply with an order made under section 8 or any rules made under this Act shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months.

[Act No. 16 of 1954, s. 2.]

**10. Protection of inspectors.**

No suit, prosecution or other legal proceeding shall lie against any inspector or his assistant for anything in good faith and without negligence done under this Act or under any rules or order made thereunder.

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