

LAWS OF DOMINICA

PLANT PROTECTION AND QUARANTINE ACT

CHAPTER 58:40

**Act
10 of 1986**

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amended by Plant Protection and Quarantine (Amendment) (No.2) Order, 2003

L.R.O. 1/1991

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**Note
on
Omission**

The Plant Protection and Quarantine (Unroasted or Unprocessed Coffee Beans Importation Prohibition) Order 1986 (S.R.O. 44/1986) made under section 7 of the Act has been omitted.

CHAPTER 58:40

PLANT PROTECTION AND QUARANTINE ACT

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SCHEDULE.

CHAPTER 58:40

PLANT PROTECTION AND QUARANTINE ACT

10 of 1986. **AN ACT to provide for the protection of the agricultural resources of Dominica from dangerous plants, pests and diseases.**

Commencement. [27th March 1986]

Short title. **1. This Act may be cited as the –
PLANT PROTECTION AND QUARANTINE ACT.**

Interpretation. **2. In this Act –**

“carrier” refers to aircraft, vessels, vehicles or any other means of transport;

“fruits and vegetables” include all edible portions of food plants in the raw or unprocessed state;

“Minister” means the Minister responsible for Agriculture;

“notifiable plant pest” means any plant pests of substantial economic importance for which measures must be taken for its eradication, control or to prevent its further spread;

“occupier” in relation to any land or building means the person in actual occupation or, where there is no such person, the owner of the land or building;

“owner” refers to the person who is for the time being entitled to receive the rent of any land or who, were the land let to a tenant, would be entitled to receive the rent.

“planting material” includes trees, shrubs, vines, cuttings, grafts, scions, buds, bulbs, roots, seeds, and any other plant part capable of propagation;

“plant pest” means any living stage of any insect, mite, nematode, slug, snail, protozoa or other invertebrate or vertebrate animal, bacterium, fungus, parasitic plant or reproductive part thereof, viruses, mycoplasma, or any organism similar or allied with any of the foregoing capable of causing damage to any plant or plant product;

“plant product” means any substance, material or article or of vegetable origin, including pollen, either processed or unprocessed, which is capable of harbouring or transporting plant pests;

“Plant Protection and Quarantine Service” means the Plant Protection and Quarantine Service established under section 25;

“receptacle” includes any package, box, container, covering, wrapper or anything whatsoever in which plants are, or have been imported, kept or conveyed, or which can serve to transport plant pests;

“soil” means the loose surface material of the earth in which plants grow, which consists mainly of disintegrated rock with an admixture of organic matter and soluble salts.

3. Subject to this Act, no person shall import or offer for entry into Dominica any planting material, fruits, vegetables, plant products, plant pests, soil or any other non-plant articles (hereinafter referred to as “restricted articles”) unless he first obtains a permit in accordance with this Act.

Permit required for restricted articles.

4. (1) Applications for permits shall be made to the Minister in the manner prescribed.

Applications for and restrictions on grant of permits.

(2) Where the Minister decides to grant a permit, he shall do so in accordance with this Act and on such terms and conditions as he considers appropriate.

(3) Without prejudice to any other terms and conditions subject to which a permit may be granted, it shall be a condition of each permit that –

- (a) each importation of a restricted article is accompanied by a phytosanitary certificate issued by the appropriate government department or agency in the country;
- (b) the certificate referred to in paragraph (a) shall be similar to that adopted from time to time by the International Plant Protection Convention of 1951 or an amended model; and
- (c) planting material shall, where the Ministry of Agriculture considers it necessary, be grown locally by or under the supervision of the Ministry and if found

harbouring or likely to harbour plant pests, shall be subject to such remedial treatment as may be stipulated.

Emergency permits.

5. The Minister is authorised to issue an emergency permit for the entry of certain pre-determined restricted articles offered for entry and for which no permit was previously granted provided the article is found to be free of plant pests and its introduction is justifiable.

Official shipments.

6. Any restricted article imported by the Ministry of Agriculture for experimental purposes shall be imported under such conditions and regulations as specified by the Minister.

Minister may prohibit or regulate importation of restricted articles.

7. (1) Notwithstanding section 3, the Minister, if it appears to him that the importation of a restricted article into Dominica is likely to result in the entry or spread of a plant pest, may by Order prohibit or regulate the importation of any such restricted article into Dominica.

(2) An Order under subsection (1) may –

- (a) where it regulates the importation of a restricted article into Dominica, specify conditions subject to which the article may be imported;
- (b) direct or authorise the seizure or disposal of any restricted article, the importation of which is prohibited or does not satisfy the conditions specified in the Order.

Minister may by Order take steps to prevent the spread of plant pests.

8. (1) The Minister may make such Orders as he thinks necessary or expedient for the control of or for preventing the spread of plant pests in Dominica.

(2) An Order made under subsection (1) may –

- (a) identify the notifiable plant pest under consideration;
- (b) determine the land or nursery to be placed under quarantine and advise the occupier or owner by notice in writing accordingly;
- (c) set forth the action to be taken by the Plant Protection and Quarantine Service and the occupier or owner in order to control the plant pest;
- (d) restrict, prohibit or control the cultivation and harvesting of any plant on any land or nursery under quarantine;

- (e) direct or authorise the destruction, removal or treatment of any restricted article;
- (f) restrict or prohibit the movement, selling, exposing or offering for sale or the distribution of a restricted article; or
- (g) direct or authorise the entering on any land for the purpose of destroying, removing or treating a restricted article in respect of which an Order is made under subsection (1).

9. When a permit has been granted for the importation of any restricted article, but an Order affecting this permit is subsequently set forth as authorised under section 7 or 8, the permit may be revoked or modified so as to conform to the Order under consideration.

Order modifying permit.

10. The Comptroller of Customs, through an authorised officer or any officer of the Postal Service through the Postmaster General, shall promptly notify the Plant Protection and Quarantine Service –

Notification of arrival or movement in the mail.

- (a) in the case of the Comptroller of Customs, of the arrival at the port of entry of any restricted articles regulated by this Act; or
- (b) in the case of the Postal Service, of the movement in the mail of any restricted articles regulated by this Act,

and further shall not release or dispose of the articles unless so authorised by the Plant Protection and Quarantine Service.

11. A restricted article which is prohibited or the importation of which is regulated by this Act or Orders issued pursuant thereto, if temporarily in the country or territorial waters of Dominica is subject to such regulations as the Minister may prescribe. All carriers, including ships and aircraft, their stores and furnishings while the carriers are temporarily in the territory of Dominica shall be subject to such regulations.

Safeguards.

12. The Minister may make such Orders and use such means as he thinks necessary to provide for the inspection of domestic plants and plant products offered for export and to certify to shippers and interested parties as to the freedom of such products from injurious plant pests according to the phytosanitary requirements indicated on the model

Export certification.

Schedule. certificate adopted by the International Plant Protection Convention of 1951 and set out in the Schedule.

Exclusion of liability. **13.** No liability may be attached to the Government of Dominica or any duly authorised officer for the destruction of material brought into Dominica in violation of this Act or any Orders or Regulations issued pursuant thereto. Likewise, the Government is in no way liable for any damage done, or delays incurred by treatments or other quarantine action deemed necessary and performed under the existing Orders. All such treatment are performed at the sole risk of the importer.

Occupier responsibility. **14.** The occupier or owner of any land or nursery on which a suspected or identified notifiable plant pest is found shall, as soon as possible, advise the Plant Protection and Quarantine Service accordingly.

Pest control notice. **15.** Any authorised officer of the Plant Protection and Quarantine Service may, by notice in writing served upon the occupier or owner of any land or nursery and which describes the measures to be taken to prevent the further spread or to control or eradicate the notifiable pest under consideration, require the occupier or owner to –

- (a) at his own expense and within the time specified in the notice, take such measures as may be recommended or required to prevent the further spread, or to control or eradicate the notifiable pest or pests;
- (b) be responsible for the implementation of control or eradication measures even if they are not stipulated in the written notice.

Failure to comply with notice. **16.** Where an occupier or owner fails to take any measures which he is required to take by notice under section 15, upon expiration of the time specified in the notice, an authorised officer of the Plant Protection and Quarantine Service shall enter the land or nursery and have implemented the measures to be taken.

Reimbursement of costs. **17.** Any expenses incurred by an authorised officer of the Plant Protection and Quarantine Service in connection with those measures to be taken under a notice issued under section 15, shall be reimbursed by the occupier or owner, whoever may be responsible for operating the land or nursery.

18. Any expenses for measures as described under section 16 are recoverable as a debt which, until paid, are considered as the first charge upon the land or nursery affected by the notice. **Debt recovery.**

19. The Minister may waive repayment of expenses referred to under section 18 for any justifiable reason, which shall be determined by the Minister and based upon substantiated facts submitted in writing. **Waiving of expenses.**

20. A notice served on the occupier or owner of land or a nursery under section 8(2)(b) or section 15 shall remain in force until the Plant Protection and Quarantine Service gives the owner or occupier a certificate in writing declaring that the land or nursery no longer is under quarantine. **Duration of quarantine.**

21. While a notice served under section 8(2)(b) or section 15 is in force, it shall be unlawful to remove or have removed any restricted article from the land or nursery under quarantine unless so authorised by the Plant Protection and Quarantine Service in writing. **Removal of plants under quarantine.**

22. It shall be the responsibility of the Plant Protection and Quarantine Service to determine if any notifiable plant pest has been eradicated and any inspections of land or nurseries to determine this shall be carried out by an authorised officer or officers at no cost to the occupier or owner. **Determination of eradication.**

23. Where no person is in actual occupation of any land or should it not be possible to locate the occupier or owner, service of any notice under this Act shall be made by affixing the notice to a conspicuous place on the land and such affixing shall be considered as an authorised service of notice. **Inability to locate occupier or owner.**

24. The Minister is authorised to compensate, out of moneys voted for that purpose by the State, occupiers and owners of lands and nurseries where any healthy plants, restricted articles or food products have been destroyed in order to achieve eradication or prevent the further spread of an identifiable pest. **Compensation.**

25. There is hereby established for the purposes of this Act a Plant Protection and Quarantine Service which shall comprise officers of the Ministry of Agriculture designated in writing by the Minister to administer and enforce the provisions of this Act. The purpose of the **Establishment of Plant Protection and Quarantine Service.**

Plant Protection and Quarantine Service is to prevent the entry into Dominica of plant pests, which are likely to affect adversely any sector of the local agricultural industry and to generally protect the agricultural resources of Dominica.

Power of Plant
Protection and
Quarantine
Service.

26. (1) The Plant Protection and Quarantine Service shall have power to do all that is necessary or incidental to the effective carrying out of the provisions of this Act and any Orders or Regulations made thereunder.

(2) Without prejudice to the generality of subsection (1), any Plant Protection and Quarantine Officer designated in writing by the Minister under section 25 to administer and enforce the provisions of this Act, who is furnished with suitable identification, shall have the power –

- (a) if he has cause to believe that any person, receptacle or carrier coming into or moving within Dominica possesses, contains or carries any restricted articles that constitute a risk to the agriculture of Dominica the entry or movement of which is prohibited or restricted by this Act or Orders issued pursuant thereto, to stop and without warrant, search and examine such persons, receptacles or carriers and seize, detain, treat, destroy or otherwise dispose of such restricted articles brought into or moving with in Dominica in violation of this Act; and
- (b) if he has cause to believe that a notifiable plant pest may be present on any land, to enter on such land and without warrant to carry out survey and detection programmes as well as to treat, destroy and remove any restricted articles, he being required, however, to inform the occupier, if present at the time, of the intention to enter, search, examine, treat, destroy or remove.

Penalties.

27. Any person who –

- (a) contravenes any provision of this Act or the Regulations made thereunder;
 - (b) alters, forges, counterfeits, defaces or destroys any document or certificate provided for in this Act; or
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- (c) in any manner obstructs, impedes, or commits an assault upon or causes bodily harm to any duly authorised employee of the Plant Protection and Quarantine Service or the Ministry of Agriculture in the execution of any of the powers conferred by this Act,

is liable to a fine of five thousand dollars and to imprisonment for six months.

28. The Minister may make Regulations as he considers necessary or expedient for carrying out the provisions of this Act and in particular may make Regulations – Regulations.

- (a) prescribing anything which is required by this Act to be prescribed;
- (b) governing the procedure relating to the issue of permits;
- (c) authorising the keeping of a restricted article in a specified place;
- (d) describing the measures to be taken where a restricted article is kept in a specified place;
- (e) providing for the revocation of permits;
- (f) providing for the inspection of nurseries or any other place where plants are grown for the purpose of sale;
- (g) providing for the treatment of buildings, vehicles, ships or aircraft in which a restricted article is or was conveyed or stored;
- (h) regulating the importation of a restricted article;
- (i) prescribing what fees are to be paid where treatment or quarantine action was given or taken.

29. All Regulations made under the Plant Protection and Quarantine Act 1972 (repealed by this Act) or having effect as if made under the Act shall continue in force until revoked. Savings.
16 of 1972.

