

amended by Agriculture (Control of Plant Disease and Pest) Amendment Regulations 2007 (BR 66 of 2007)

BERMUDA STATUTORY INSTRUMENT

SR&O 31/1970

**AGRICULTURE (CONTROL OF PLANT DISEASE AND PEST)
REGULATIONS 1970**

*[made under section 48 of the Agriculture Act 1930 [title 25 item 1] and
brought into operation on 24 October 1970]*

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Interpretation

- 1 In these Regulations unless the context otherwise requires—

"disease" or "pest" means any form of fungi including rusts, smuts, moulds and yeasts; any form of bacteria; any form of viruses; any form of similar or allied organisms; any living stage of land or fresh water mollusk including snails and slugs; any living stage of the small invertebrate animals belonging to the phylum Arthropoda including insects, mites, ticks, centipedes; any form of elongated invertebrates lacking appendages, known as worms, including earthworms and nematodes; any form of protozoa which may directly or indirectly affect, injure or harm plants or parts and products thereof;

"Inspector" means any person authorized by the Director to enforce these Regulations;

"notifiable disease or pest" means any disease or pest which the Minister declares by publication in the Gazette to be notifiable;

"nursery stock" means and includes every kind and species of plant grown or used for ornamental purposes, propagation or cropping, except mushroom spawn and the seeds of flowers, vegetables and field crops;

"permit" means a permission in writing issued by the Director or Inspector allowing the importation of plants;

"plant" or "plants" includes all members of the vegetable kingdom and any part or product thereof;

"treatment" means fumigation or any other process involving the application of a gas, dry or moist heat, chemicals, low temperatures, excision of infested parts, or any other

processing of plants that is designed to eliminate or control any infection or infestation by a disease or pest.

[section 1 amended by 1991:99 effective 1 April 1991]

Discovery of plant disease or pest to be reported

2 Every person who has or has had in his possession or under his charge any plant shall immediately give notice to the Director or the Inspector of the discovery of any plant disease or pest declared to be notifiable, and of any disease or pest which appears to be of recent introduction or of serious nature:

Provided that any information given under this regulation shall not be available as evidence against the person giving the same in any prosecution under these Regulations, except in respect of an alleged failure to comply with this regulation.

Entry on premises

3 The Director or Inspector shall have access to premises or other property between the hours of 7 a.m. and 6 p.m. for the purpose of inspection and treatment of plant diseases or pests.

Pruning or destruction of plant

4 An Inspector shall have the power to prune or destroy diseased, infected or healthy plants if in his opinion it is necessary to prevent the occurrence, or increase of a plant disease or pest or its spread into adjoining land, but grants by way of compensation may be made by Government to persons if healthy plants are necessarily destroyed in the exercise of this power.

Infected plant not to be sold

5 No person shall sell or offer for sale any plant infected with any disease or infested with any pest.

Inspection of ship or aircraft arriving in Bermuda

6 An Inspector may board and inspect any ship or aircraft arriving in Bermuda if in his opinion it is necessary in order to prevent the introduction of any plant disease or pest.

Precautions by masters and pilots to prevent introduction of plant disease or pest

7 It shall be the duty of the master of every ship and the pilot of every aircraft arriving in Bermuda to take such precautions as the Director may stipulate to prevent the introduction of any plant disease or pest.

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Restriction on introduction or admission of plants

8 The introduction or admission of plants into Bermuda is permitted only as provided by these Regulations.

Import permit

9 (1) Before any nursery stock may be imported an application for a permit shall be made to the Department; every such application shall be signed by the importer and shall specify—

- (a) the quantity and botanical designation of nursery stock;
- (b) the country and locality therein of origin; and
- (c) the means of transportation to be employed.

(2) Upon receipt of an application and upon approval by the Inspector a permit will be issued specifying the conditions of entry.

(3) No permit shall be issued for any nursery stock the importation of which is prohibited by these Regulations.

Consignment documents

10 A consignment of nursery stock shall be accompanied by the original permit issued by the Department and a phytosanitary certificate issued and signed by an authorized official in the country of origin, certifying that the nursery stock in respect of which the certificate was issued was examined at the time of packing by the official and was found, to the best of his knowledge, to be free from diseases or pests; and that the consignment is believed to conform to the current phytosanitary regulations of Bermuda and to the requirements set forth in the import permit.

Restriction to seeds

11 (1) Except as provided in this paragraph, only seeds may be imported in the case of trees, species of plants used for understocks, and woody ornamental plants that are botanical species or botanical varieties and which grow true from seed. The Inspector may authorize the importation of plants rather than the seeds of the varieties specified in this paragraph whenever the importer, satisfies the Inspector, that the plants desired cannot be produced from seeds because either—

- (a) they are variations which are produced by vegetative means only; or
- (b) it is impossible or impracticable to import viable seed.

(2) Except as provided in this paragraph all nursery stock imported shall be the youngest and smallest normal clean and healthy plants which can successfully be freed from soil about their roots, transported to Bermuda and established. The Inspector may use as a

maximum criterion in enforcing this limitation the normal size of plants no more than two years of age when grown from seeds or cuttings, or having no more than two seasons growth from the bud or graft when produced by budding or grafting.

(3) Herbaceous perennials which are usually imported in the form of root crowns or clumps may be imported only if the plants are no more than one year old.

Golden nematode

12 Nursery stock originating from countries where golden nematode, *Heterodera rostochiensis* Wr. is known to occur is prohibited from entry unless accompanied by a special declaration in the phytosanitary certificate of a competent official survey that the nursery stock included in the consignment was grown under conditions indicating apparent freedom from golden nematode.

Burrowing nematode

13 Nursery stock originating from areas where burrowing nematode, *Radopholus similis* (Cobb) Thorne is known to occur is prohibited from entry unless accompanied by a special declaration in the phytosanitary certificate of a competent official survey that burrowing nematode does not exist on the property or premises on which the nursery stock was grown.

Citrus blackfly

14 Nursery stock originating from countries where citrus blackfly, *Aleurocanthus woglumi* Ashby is known to occur must be defoliated before arriving in Bermuda.

No sand, soil or earth allowed on stock

15 Nursery stock imported into Bermuda shall be free from all sand, soil and earth, but may be packed in sphagnum moss, osmunda fibre, coconut fibre, wood shavings, sawdust, vermiculite, excelsior, or peat moss, provided that the packing material has not previously been used for this purpose.

Arrival of consignment

16 Immediately upon arrival of any consignment of nursery stock at a port of entry, the importer shall notify the Department of the arrival and submit an invoice or packing list which identifies the contents of the consignment. The consignment may not be removed from the point of entry without the Inspector's permission.

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Examination of consignment

17 Nursery stock may be examined and detained by an Inspector to ensure freedom from diseases and pests, and to determine compliance with these Regulations. Entry will be refused to nursery stock found upon inspection to harbour plant disease and pests, where no adequate method of treatment is available.

Fresh fruit and vegetables; cut flowers

18 Subject to regulations 19, 20, and 23, fresh fruit and vegetables, cut flowers, plant products and seeds of flowers, vegetables and field crops may enter Bermuda without a permit, but may be subject to inspection on arrival to determine freedom from diseases and pests.

Phytosanitary certificate for fresh unfrozen vegetables

19 Fresh unfrozen vegetables from all countries, except the United Kingdom, Canada and the United States of America, must be accompanied by a phytosanitary certificate issued by a competent authority in the country of origin.

Phytosanitary certificate for fresh unfrozen fruit

20 Fresh unfrozen fruit from all countries, except the United Kingdom, Canada and the United States of America, must be accompanied by a phytosanitary certificate issued by a competent authority indicating freedom from pests and diseases and—

- (a) that fruit flies of the genera *Dacus*, *Anastrepha*, *Toxotrypana*, *Ceratitis* and *Rhagoletis* within the family Tephritidae do not occur in the country of origin; or
- (b) that the fruit has been exposed to treatment designed to kill all stages of fruit flies in the genera listed in paragraph (a), and indicating the nature of the treatment.

Treatment of plants

21 (1) Every plant imported into Bermuda may be treated for the control of diseases or pests, and the cost of the treatment may be recovered from the owner or consignee of the plant.

(2) Government shall not be liable in consequence of the importation or attempted importation of plants destroyed by an Inspector, in order to prevent the introduction of a plant disease or pest, unless in the course of destruction damage to other plants occurs which is the direct result of negligence on the part of the Inspector.

Consent to import sand and other potting media

22 The importation of sand, crushed rock, gravel, peat or synthetic potting media, is permitted only with the prior written consent of the Director.

Prohibited imports

23 Importation of the following is prohibited—

- (a) Any disease or pest as defined in regulation 1.
- (b) *Althaea* spp., with the exception of seed.
- (c) Carrots in their raw or untreated state.
- (cc) *[deleted by BR 42/1989 effective 27 October 1989]*
- (d) *Citrus* spp., all propagating material other than seed.
- (e) Corn or maize, broom corn and other sorghum, all raw parts except loose grain.
- (f) *Dianthus* spp., from England, all propagating material other than seed.
- (g) *Hibiscus* spp., other than seed.
- (h) *Ipomoea* spp., (sweet potatoes, morning glory, sweet potato vine, etc.) plants and tubers.
- (i) *Lilium* spp., all parts except flower and seed.
- (j) *Musa* spp., excluding the fruit.
- (k) *Nerium* spp., with the exception of seed.
- (l) Potatoes from areas where either wart disease, *Synchytrium endobioticum* (Schilr.) Perc., or golden nematode, *Heterodera rostochiensis* Wr. is known to occur.
- (ll) *Palmae* (all members), all parts and seed except husked coconuts.
- (m) Soil.

[Regulation 23 amended by BR 42/1989 effective 27 October 1989]

Importation of citrus fruit from Florida

23A Importation of *Citrus* spp., all fruit from Florida is prohibited except where it is made in accordance with the requirements specified by the Director.

[Regulation 23A inserted by BR 42/1989 effective 27 October 1989]

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Minister may issue a permit for the importation of soil

23B (1) Notwithstanding regulation 23(m), a person may import soil into Bermuda if he does so under the authority of a permit issued under this regulation.

(2) An application for a permit shall be made in writing to the Minister and shall specify the—

- (a) purpose of, and give a detailed justification for, the importation of the soil;
- (b) volume, weight and type of soil to be imported;
- (c) country, and the place in that country, from which the soil is to originate;
- (d) measures to be taken in the country, from which the soil is to originate, to destroy any contaminant in the soil to be imported;
- (e) measures to be taken to ensure that any container into which, or surface onto which, the soil is to be loaded is free of any contaminant;
- (f) route through which the soil is to travel;
- (g) port at which the soil is to arrive in Bermuda;
- (h) place of final destination, in Bermuda, of the soil; and
- (i) measures to be taken to prevent the soil from being exposed to any contaminant while it is being transported from its place of origin to its final destination in Bermuda.

(3) After receiving the application, the Minister shall consult with the Board.

(4) The Minister may request the applicant to—

- (a) give additional information; or
- (b) alter the application.

(5) The Minister may, after consulting the Board under sub-regulation (3) and reviewing any additional information or alteration under sub-regulation (4), in the Minister's discretion—

- (a) grant the permit subject to such conditions as the Minister believes necessary; or
- (b) refuse the permit.

(6) If the Minister grants the permit, the Minister shall specify in the permit the conditions of importation of the soil, including—

- (a) how, where and by whom the soil (in its country of origin) is to be subjected to any treatment (such as dry heat, steam or irradiation) to destroy any contaminant in the soil;
- (b) how, where and by whom the soil (in its country of origin) is to be tested to establish whether every contaminant in the soil has been destroyed;
- (c) how, where and by whom the soil (as soon as practicable after its arrival in Bermuda) is to be tested to establish whether or not there is any contaminant in the soil; and
- (d) such other conditions as the Minister believes necessary to prevent the introduction into Bermuda of any contaminant in the soil.

(7) The importer shall, as soon as practicable after the arrival of the soil at a port in Bermuda, make written application to the Minister for permission to remove the soil from the port to its final destination in Bermuda.

(8) Until the importer has obtained the written permission of the Minister to remove the soil from the port to its final destination—

- (a) the soil is to be kept at the port under such conditions as the Minister may, in writing, specify; and
- (b) except for the purposes of tests to be conducted under sub-regulation (6)(c), none of the soil is to be removed from the port.

(9) The Minister shall give permission to remove the soil from the port, to its final destination, if the Minister is satisfied that—

- (a) the conditions of the permit have been satisfied; and
- (b) all necessary measures have been taken to prevent the introduction into Bermuda of any contaminant in the soil.

(10) In this regulation—

“contaminant” means any plant, plant disease, pest or infectious animal disease;

“importer” means a person who is granted a permit under sub-regulation (5);

“port” includes an airport.

[Regulation 23B inserted by BR66/2007 effective 29 June 2007]

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Plant exports

24 An Inspector may inspect any plant before export from Bermuda and may issue a certificate to comply with the requirements of the importing country.

Saving for imports by Minister

25 Nothing in these Regulations shall prevent the Minister from importing any species of plants.

Offences

26 Every person who contravenes these Regulations or who wilfully obstructs or impedes an Inspector in the exercise of his powers under these Regulations commits an offence and shall be liable on conviction to the penalty which is provided by section 60 of the Agriculture Act 1930 [*title 25 item 1*].

Revocation

27 [*omitted*]

[*Amended by*

BR 37/1986

BR 42/1989

1991 : 99

BR 66/2007]