

CHAPTER 242
PLANT PROTECTION ACT

• Act •

ACT

Act No. 19 of 1986

Amended by

Act No. 3 of 2002

Act No. 13 of 2005

ARRANGEMENT OF SECTIONS

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CHAPTER 242
PLANT PROTECTION ACT

An Act to provide for the control of pests injurious to plants, and to prevent the importation of plants and materials harmful to agriculture.

[Act No. 19 of 1986 amended by Act No. 3 of 2002, Act No. 13 of 2005.]

[8th April, 1986.]

1. Short title

This Act may be cited as the Plant Protection Act.

2. Interpretation

In this Act—

“Board” means the Plant Protection Board appointed under section 16;

“carrier” means aircraft, vessel, vehicle or other means of conveyance;

“designated officer” means a public officer designated under section 9;

“Minister” means the Minister for the time being responsible for matters relating to agriculture, and “Ministry” shall be construed accordingly;

“notifiable plant pest” means a plant pest declared by Order under section 3(2) to be notifiable;

“occupier” means the person in actual occupation or, where there is no such person, the owner;

“owner” means the person for the time being entitled to receive the rent of land or who, where the land is not let, would be entitled to receive the rent;

“plant” includes tree, shrub, vine, cutting, graft, scion, bud, bulb, root, seed, and any part of a plant being a part that is capable of propagation;

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

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

“Plant Quarantine Service” means the Plant Quarantine Service established under section 9;

“prohibited or restricted materials” means any plant, plant product, plant pest, soil or article specified in an Order made under section 3(2);

“receptacle” includes any package, box, container, covering, wrapper or article in which plants are, or have been, imported, kept or conveyed, or which is capable of being used to transport plant pests;

“soil” refers to the loose surface material of the earth in which plants grow, ordinarily consisting of disintegrated rock with an admixture of organic matter and soluble salts.

3. Power of Minister to prohibit or restrict import, etc., of materials, etc.

(1) The Minister may, by Order, declare any plant pest of substantial economic significance requiring measures to be taken for its eradication or control to prevent its spread to be a notifiable plant pest for purposes of this Act.

(2) The Minister may, by Order, prohibit or restrict the importation into or movement within Grenada of any plant, plant product, plant pest, soil or article specified in the Order, if he or she is satisfied, as the case may be, that the prohibition or restriction is necessary to protect the agricultural resources of Grenada.

4. Power of Minister to issue import permits

(1) No person shall import or offer for importation any plant, plant product, plant pest, predator or parasite of any plant pest, or soil, except under the authority of a permit issued by the Minister.

(2) The Minister may issue a permit authorising the importation of any plant or plant product if, on inspection, it is found to be free of plant pests and its importation is justifiable.

5. Certification requirements on import of certain things

All plants, plant products, plant pests, live beneficial organisms, and soils imported into Grenada must be accompanied by a phytosanitary certificate, issued by the appropriate agricultural authority of the exporting country, that conforms to the model adopted by the International Plant Protection Convention of 1951 as may, from time to time, be amended.

5A. Certification requirements on export of certain things

The Minister may issue a phytosanitary certificate for all plants, plant products, plant pests, live beneficial organisms and soil exported from Grenada.

6. Power of Minister to order quarantine

The Minister may, by Order, if he or she considers it necessary require that imported plants be grown in quarantine by or under the supervision of the Ministry and if found infected, or infested with any plant pest, he or she shall have power to authorise measures to prevent their establishment and spread.

7. Permits may be revoked or modified in certain cases

If a permit under section 4 has been granted for the importation of plants, plant products, plant pests, live beneficial organisms or soil, and a prohibition or restriction is subsequently imposed thereon by an Order under section 3, the permit may be revoked or modified, as may be required, so as to ensure conformity with the terms of the Order.

8. Duties of customs officers

It shall be the duty of the Comptroller of Customs and Excise through officers subordinate to him or her promptly to notify the Plant Quarantine Service of the arrival in Grenada of any plant, plant product or soil, or any prohibited or restricted material and to refuse to release or dispose of the same without authorisation in writing by an officer of the Plant Quarantine Service.

9. Establishment of services for enforcement of Act and powers of officers

(1) The Minister may establish a Plant Protection Service and a Plant Quarantine Service, as may be required, to protect the agricultural resources of Grenada and he or she may, in writing, designate officers of his or her Ministry to administer and enforce this Act.

(2) A designated officer shall be furnished by the Ministry with suitable means of identification.

(3) If a designated officer has cause to believe that any person, receptacle or carrier coming into or moving within Grenada possesses, contains or carries any prohibited or restricted materials he or she may, after making known his or her identity to anyone reasonably so requiring, stop and without a warrant search such person, receptacle or carrier and seize, detain, treat, destroy or otherwise dispose of any or all of such prohibited or restricted materials.

(4) If a designated officer has cause to believe that a notifiable plant pest may be present on any land, he or she may enter the land and without warrant carry out survey and detection procedures and may treat, destroy or remove any prohibited or restricted material or any notifiable plant pest found thereon:

Provided that he or she shall make known his or her identity and his or her intention to any occupier of the land who reasonably so requires.

10. Duty of occupier to notify of pests

The occupier of land on which a suspected or identified notifiable plant pest is found shall without delay notify the Ministry.

11. Power of officers to serve notice on occupier or owner requiring action

(1) A designated officer may, by notice in writing served upon the occupier or owner of land, set forth the action that is required to be taken to eradicate or control any notifiable pest therein and require the occupier or owner—

- (a) at his or her own expense and within a period to be specified in the notice to take such action; and
- (b) to undertake any other reasonable control or eradication measures whether or not stipulated in the notice.

(2) Where an occupier or owner fails to take action which he or she is required to take by a notice under subsection (1) within the period specified therein, a designated officer may enter the land forthwith and implement or cause to be implemented the action required to be taken.

(3) Any expenses incurred by a designated officer in connection with action taken under subsection (2) shall be reimbursed to the Government by the occupier or owner, and in default may be recovered by the Chief Plant Protection Officer as a civil debt.

(4) The Minister may waive the whole or any portion of the expenses, incurred as aforesaid, for any reason, based upon substantiated facts submitted in writing, determined by him or her to be justifiable.

12. Orders by Minister to prevent spread of pests

(1) The Minister may make any Order necessary to prevent the spread of notifiable plant pests.

(2) An Order made under subsection (1) shall—

- (a) specify the pest to which it relates;
- (b) identify the land where the pest has been found;
- (c) set forth the action required to be taken by the Government and by the occupier to eradicate or control the pest;
- (d) specify any restriction or prohibition on the cultivation or harvesting of any plant that the Minister considers necessary.

13. Duration and effect of certain notices

(1) A notice served on an occupier or owner under section 11(1) shall remain in force until the Ministry shall have given to the occupier or owner a certificate in writing releasing him or her from the obligations imposed on him or her by the notice.

(2) While a notice served under section 11(1) remains in force, it shall be unlawful to remove or to cause the removal of any planting material, fruits, vegetables, plant products or soil from the land to which the notice relates unless so required by the notice or authorised in writing by the Ministry.

(3) It shall be the responsibility of the Ministry to determine whether or not a notifiable pest has been eradicated; and any inspection of land necessary to determine this question shall be carried out by an authorised officer of the Ministry at no cost to the occupier or owner.

14. Service of notice in absence of occupier, etc.

Where no person is in actual occupation and where an occupier or owner cannot be located, service of a notice under this Act may be effected by affixing the notice in a conspicuous position on the land concerned.

15. Exclusion of liability of Government, and power to compensate

(1) No liability shall attach to the Government in respect of the destruction of material imported in contravention of this Act, or in respect of any damage done, or delay incurred, by reason of any treatment or quarantine considered necessary and authorised under this Act.

(2) The Minister in his or her absolute discretion may compensate, out of monies voted for that purpose by Parliament, occupiers and owners of land any of whose healthy plants, planting material, fruits, vegetables or food products have been destroyed in furtherance of the provisions of this Act.

16. Plant Protection Board

(1) The Minister shall appoint a Plant Protection Board which shall consist of the following members—

- (a) the Chief Plant Protection Officer who also shall serve as chairperson of the Board;
- (b) an entomologist and a plant pathologist attached to the Pest Management Unit of the Ministry;
- (c) the officer in charge of the Plant Quarantine Service who also shall serve as secretary to the Board;
- (d) a senior extension officer of the Ministry;
- (e) a Government legal officer nominated by the Attorney-General.

(2) Where a member of the Board is unable to serve, the Minister may appoint an alternate member who shall serve in his or her stead, except that in the case of subsection (1)(e) the alternate member shall be nominated by the Attorney-General.

(3) The duties of the Board are to advise the Minister on all matters provided by this Act and, in particular, on—

- (a) making or amending Orders and regulations authorised under this Act;
- (b) the declaration of any plant pest as a notifiable plant pest;
- (c) the status of planting material, fruits, vegetables, plant products, plant pests and soil that are being offered or may be offered for importation; and
- (d) the management, operation and material requirements of the Plant Quarantine Service.

(4) The Board shall regulate its own procedure at meetings, subject to the following provisions—

- (a) meetings shall be convened at such times as may be necessary or expedient for the efficient performance of the duties of the Board, and as the chairperson may direct;
- (b) four members present shall constitute a quorum;
- (c) if the chairperson and his or her alternate are absent from any meeting the members present may elect from among themselves a member to preside at the meeting; and

- (d) decisions of the Board shall be by a majority of votes of the members present, and in case of an equal number of votes the person presiding shall, in addition to his or her original vote, exercise a casting vote.

(5) The Board may co-opt any one or more persons to attend Board meetings for the purpose only of assisting or advising the Board.

(6) A member of the Board appointed under subsection (1) or (2) may—

- (a) hold office for a period not exceeding that specified in his or her instrument of appointment but shall be eligible for re-appointment; and
- (b) at any time resign his or her office by notification in writing to the secretary of the Board.

17. Offences and penalty

(1) If any person—

- (a) contravenes section 3, 4(1), 10 or 13(2), or the terms of an Order made under section 6 or 12(1);
- (b) alters, forges, counterfeits, defaces or destroys any document provided for by this Act; or
- (c) obstructs, impedes, assaults or causes bodily harm to any designated officer in the execution of his or her duty under this Act,

he or she shall be guilty of an offence and liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for two years.

(2) Proceedings in a court of summary jurisdiction for an offence under this Act may be prosecuted by a member of the Plant Quarantine Service.

18. Power of Minister to make regulations

The Minister may make regulations for carrying the foregoing provisions of this Act into effect and, without prejudice to the generality of this provision, for—

- (a) authorising, subject to such conditions as he or she thinks fit, the importation of plants, plant products, plant pests or live beneficial organisms by the Ministry for experimental purposes;
- (b) the control of prohibited or restricted materials in transit through Grenada and the carriers of such materials;
- (c) the inspection and certification of plants and plant products intended for export;
- (d) prescribing fees for any permit issued or service provided under this Act.

19. Minister acts on advice of the Board

In the exercise of the powers conferred by sections 3, 6, 12(1) and 18, the Minister acts on the advice of the Board.
