



# AGRICULTURE (CONTROL OF IMPORTATION) ACT

## ARRANGEMENT OF SECTIONS

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## CITATION

An Act to make provisions for regulating the importation of articles for the purpose of controlling plant diseases and pests.

COMMENCEMENT: 31st March, 1964]

## Short title

1. This Act may be cited as the Agriculture (Control of Importation) Act.

## Interpretation

2. In this Act, unless the context otherwise requires-

"Act" includes regulations made under this Act;

"Authorized officer" means a person designated as an authorized officer under section 3 of this Act;

"Imports" means to bring or cause to be brought into Nigeria; and "importation" shall be construed accordingly;

"Minister" means the Minister charged with responsibility for matters relating to agricultural research;

"Pest" means any insect or other animal injurious to agricultural or horticultural crops;

"Plant" means any plant or parts of a plant such as cuttings, suckers, bulbs, tubers, roots, haulms, and fruits; but does not include the manufactured or processed products of plants;

"Plant disease" means any disease caused by fungus, bacterium, virus, or any other organism injurious to agricultural or horticultural crops.

## Authorized officers

3. The Minister may designate any officer in the public service of the Federation as an authorized officer for the purposes of this Act.

## Minister may make regulations

4. (1) The Minister may make regulations prohibiting, restricting or laying down conditions for the importation from any or all countries of plants, seeds, soil, containers, straw and other packing materials, artificial fertilizers, and any other similar goods or things, and without prejudice to the generality of the foregoing any such regulations may prescribe or provide for-

(a) the places at which such goods or things may or may not be imported;

- (b) the detention and examination of such goods and things on arrival;
  - (c) the charging of fees in respect of matters to which the regulations relate;
  - (d) carrying into effect the provisions of this Act generally.
- (2) Regulations made under this section may provide that a contravention of any specified regulations shall be an offence and may provide penalties in respect thereof:

Provided that, the penalties provided in respect of any such offence shall not exceed a fine of ₦200 and imprisonment for a term of six months.

#### Regulations to be laid before the National Assembly

5. (1) All regulations made under section 4 shall be laid before both Houses of the National Assembly as soon as may be after the date of their making.
- (2) Either House may, by resolution, approve, amend or revoke any regulations laid before the House in pursuance of this section, but any such amendment or revocation shall be without prejudice to anything lawfully done there under or to the making of further regulations.

#### Diseases and pests

6. Where plants, seeds, soil, containers, straw or other packing materials or any other similar goods or things are on importation found or suspected to be infected with any plant disease or pest, an authorized officer may order them to be destroyed or may direct that they shall not be imported until they have been treated to his satisfaction for the removal of the plant disease or pest.

#### Furnishing of information

7. (1) An authorized officer may call upon any person to furnish him with any information he may reasonably require for the purpose of investigating any offence against this Act.

- (2) No person who obtains any information by virtue of this section shall, otherwise than in the execution of his duties or powers under this Act, disclose that information except with the permission of the Minister.

#### Offences

8. (1) Any person who -
- (a) hinders or molests any authorized officer in the exercise of any of his duties or powers under this Act; or
  - (b) without lawful excuse, fails to comply with any order lawfully given under this Act; or
- without lawful excuse, fails to furnish any information lawfully demanded under this Act or furnishes information which he knows to be false in a material particular or does not believe to be true, shall be guilty of an offence and liable on conviction to a fine of ₦400 and imprisonment for a term of one year.
- (2) In any prosecution for an offence against this section, the onus of proving the existence of a lawful excuse shall lie on the person charged.

#### Prosecution

9. (1) No prosecution for an offence against this Act shall be commenced except with the consent of the Director of the Federal Department of Agricultural Research.
- (2) Nothing in this section shall prevent the institution of proceedings for an offence against this Act by or in the name of the Attorney-General of the Federation in accordance with the provisions of the Constitution of the Federal Republic of Nigeria in any case in which he thinks it proper that proceedings should be so instituted.

#### Defense in civil and criminal proceedings

10. Where any proceedings, whether civil or criminal, are brought against any public officer in respect of any act done in pursuance of any of the provisions of this Act, it shall be a good defense to show that there was reasonable and probable cause for the act in respect of which such proceedings are brought.

Power to sue for fees, etc.

- 11, Any expenses or fees due under this Act may be recovered by the Director of the Federal Department of Agricultural Research as a civil debt.

Transitional provisions

12. Any regulations made under the Agriculture Act, 1950, relating to matters in respect of which the Minister has power to make regulations under this Act and in force immediately before the commencement of this Act shall remain in force, as if made under this Act, until replaced by regulations made under this Act.

## **CHAPTER A13: AGRICULTURE (CONTROL OF IMPORTATION) ACT**

### **SUBSIDIARY LEGISLATION**

PLANTS, ETC. (CONTROL OF IMPORTATION) REGULATIONS under section 4

COMMENCEMENT: 22nd January, 1970

Authorized officers

1. (1) The person for the time being holding office as Federal Director of Agricultural Research (in these Regulations referred to as "the Director") shall be an authorized officer for the purposes of these Regulations; and in addition all officers under his control (not below the rank or grade of assistant technical officer) designated by the Director, from time to time, in writing under his hand shall likewise be authorized officers for the purposes aforesaid.  
  
(2) The persons holding office as authorized officers under any regulations hereby revoked shall, on the commencement of these Regulations, be deemed to have been duly appointed as authorized officers under these Regulations.

Control of import of plants etc.

2. (1) Where in respect of plants, seeds, or things mentioned in subparagraph (2) of this Regulation the item is marked in the First Schedule to these Regulations, as -

(a) "prohibited", it shall not in any circumstances be imported into Nigeria and if found there it may be destroyed by any authorized officer or, if he thinks fit, he may treat the item or cause it to be exported to the country of origin;

(b) "permit", it may be imported on a permit issued by an authorized officer (subject to quarantine thereafter where necessary) if accompanied by a phytosanitary certificate together with a special certificate or additional declaration as the case may require.

(2) The plants, seeds or things to which subparagraph (1) of this regulation applies are-

(a) plants living or dead (and whether or not used as or forming part of packing materials);

(b) seeds of plants of any description;

(c) soil (other than sterilized peat and special rooting compost);

(d) material mixed with soil (save where the material and the soil or either of them comply or complies with the requirements of a permit issued by an authorized officer for its importation).

Application for permit

3. Application for a permit shall be made in writing to the Plant Quarantine Service of the Federal Department of Agricultural Research, Ibadan (in these Regulations referred to as "the Service") stating –

(a) the full name, residence and postal address of the applicant;

- (b) the name and address of the person from whom it is proposed to obtain the plants, seed or soil;
- (c) the botanical name and the generally accepted popular name and variety of plants or seeds and the quantity of each variety it is desired to import;
- (d) the locality in Nigeria in which it is proposed to grow or utilize the plants, seeds or soil, as the case may be;
- (e) the port of entry and estimated date of arrival and the means of transportation of the consignment.

#### Conditions of permit

4. (1) The issue of any permit for the purposes of these Regulations shall be at the discretion of an authorized officer and be subject to such conditions as he thinks fit not inconsistent with these Regulations (including but without prejudice to the generality hereof a condition that each consignment shall be accompanied by a phytosanitary certificate duly completed and signed in the country of origin by or on behalf of a competent authority acceptable to the Director and where necessary by a special certificate or additional declaration under these Regulations).
- (2) An authorized officer shall, when considering an application for a permit to import, have regard to the requirements specified in the First Schedule to these Regulations so far as they relate to the proposed importation.
- (3) If he thinks fit, the director may in any case where importation is restricted, stipulate the technique of disinfection or, as the case may be, of disinfection to be employed in treating plants, seeds, soil, containers or other items whatsoever in that category, as a condition precedent to importation.
- (4) A permit for the purposes of this regulation shall be in the form set out in the Second Schedule to these Regulations.

#### Plants, etc., contaminated or imported illegally

5. (1) Where it is necessary to treat any plant, seed, soil or material imported without permit and container thereof of any description whatsoever, or a carrier in either case

requiring to be treated by way of disinfestation or disinfection, the treatment given shall be at the cost in all things of the importer and be given under the supervision and control of an authorized officer.

- (2) Notice of the action to be taken by the Service shall be given to the importer, not less in any event than seven days after the Service is aware of the importation and the time and action in respect thereof shall be carried out as soon as may be thereafter, so however that in the case of commercial consignments the action to be taken shall be performed at a time to be fixed by the Director.
- (3) It shall be an offence where an importer when required by an authorized officer so to do fails to destroy or export any plants, seeds or soil imported in contravention of these Regulations; and any authorized officer may destroy or export them to the country of origin, and the expenses of so doing shall be recoverable as hereinafter provided.

#### Examination and sampling

6. (1) Subject to the production of his authority to act, in that behalf, any authorized officer may-
  - (a) enter into any premises or carrier at all reasonable times to examine and take samples of any consignment or part of a consignment of plants, seeds, soil, containers or other item whatsoever suspected of harboring pests, plant diseases, or noxious weeds imported, or suspected by him of having been imported into Nigeria and for the purpose of such examination may open or require the importer to open any packages in the consignment;
  - (b) search or detain any person, container, carrier, or other item whatsoever imported, offered for import or suspected of having been imported into Nigeria to ascertain whether or not plants, seeds, or soil suspected of harboring pests, or diseases or noxious weeds are being carried.
- (2) The failure to permit or allow entry or search under, or generally to comply with any of the requirements of this regulation, shall be an offence under these Regulations.

#### Penalties for offences



7. Any person guilty of an offence under these Regulations shall be liable on conviction to a fine not exceeding one hundred naira or imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and in addition whether or not a fine is imposed, judgment shall be entered against the person guilty of an offence for all costs incurred by an authorized officer in providing necessary treatment or in the destruction or exportation of any plant, seed, soil, or any thing whatsoever imported in contravention of these Regulations.

#### Interpretation

8. (1) In these Regulations, unless the context otherwise requires-

"Carrier" includes any mode of conveyance however operated or controlled, and any container in, on or attached to a carrier;

"Container" means anything capable of or designed for the holding of plants or plant material whether or not to be brought into Nigeria by individual means or by a carrier;

"Director" has the meaning assigned in regulation 1;

"Importer" means the person bringing into Nigeria anything to which these Regulations apply and includes the owner, consignor, consignee, agent or broker, in possession of, or in any way entitled to, the custody thereof;

"Noxious weeds" any plants or seeds or plant species, the importation of which is considered by the director to be undesirable or deleterious in the interest of the economy of Nigeria;

"Pest" includes any animal or insect injurious to or in the opinion of an authorized officer likely to be harmful to agricultural or horticultural or viticulture crops;

"Phytosanitary certificate" means a document issued by the recognized plant protection authority or organization of the country of origin certifying that the plants or plant products indicated therein have been thoroughly examined before dispatch and found to be substantially free from pests and disease;

"Plant" means any plant or parts of a plant other than any manufactured or processed product of plants;

"Plant disease" means any disease carried by fungus, bacterium, virus or other organism injurious to agricultural, horticultural or viticulture crops;

"Quarantine" means the culture under general conditions of isolation, immediately after introduction into Nigeria under and subject to the control of the director and in accordance generally with any recommendations of the Inter-African Phytosanitary Commission;

"Service" has the meaning assigned in regulation 3;

"Treatment" means fumigation or any other process involving the application of gas, chemical, moist or dry heat, low temperature, excision of infected parts or any other processing of plants, seeds or soil or other materials that is designed to eliminate or control any infestation or infection by a plant pest or disease.

(2) References in these Regulations to-

(a) "prohibit" and grammatical variations thereof means the refusal in accordance with Article 6 of the Inter-African Phytosanitary Convention to permit importation of plants or plant products, so however that importation may be undertaken by or on behalf of the Service itself as a matter of urgency for scientific purposes and thereupon or thereafter-

(i) notice of and reason for the decision to import is given by the director to the Scientific Secretary of the Inter-African Phytosanitary Commission; and

(ii) the maximum necessary precautionary measures (including phytosanitary certificate inspection, treatment and quarantine) are taken by the director;

(b) "Special certificate" or "additional declaration" means a certificate or declaration, as the case may be, endorsed or annexed to a phytosanitary certificate-

(i) as proof of freedom from disease when inspected during active growth; or

(ii) to ensure safeguard against disease or pests specially mentioned;

(b) "Vegetable material" means any living organ or a plant (other than the seed).

Short title

9. These Regulations may be cited as the Plants, etc. (Control of Importation) Regulations.



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