

THE PLANT HEALTH PROTECTION BILL, 2013

(Bill No of 2013)

(To be presented by the Minister for Agriculture)

MEMORANDUM OF OBJECTS AND REASONS

The object of the Act is to provide for –

- (a) the prevention, introduction, and spread of plant pests;
- (b) the facilitation of trade in plant production and products in accordance with the International Plant Protection Convention; and
- (c) other incidental matters.

S.M. KHUMALO
J.M. DLAMINI
ATTORNEY-GENERAL

A BILL

Entitled

AN ACT to make provisions for the prevention, introduction, and spread of plant pests and to facilitate trade in plants and plant products in accordance with the provisions of the International Plant Protection Convention, and to provide for other incidental matters.

ENACTED by the King and the Parliament of Swaziland/ Eswatini

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PART I

PRELIMINARY PROVISIONS

Short Title and Commencement

1. (1) This Act may be cited as the Plant Health Protection Act, 2013
- (2) This Act shall come into force on the date of publication in the gazette.

Interpretation

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

“additional declaration” means a statement that is required by an importing country to be entered on a phytosanitary certificate and which provides specific additional information on a consignment in relation to regulated pests;

“area” means an officially defined part of the territory of the country;

“biological control agent” means a natural enemy, antagonist or competitor, and other organisms used for pest control;

“buffer zone” means an area in which a specific pest does not occur or occurs at a low level and is officially controlled, that either encloses or is adjacent to an infested area, an area of low pest prevalence or a pest free area and in which phytosanitary measures are taken to prevent the spread of the pest;

“consignment” means a quantity of plants, plant products or regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate;

“consignment in transit” means a consignment that is not imported into the territory of the country but passes through it to another country, subject to official procedures which ensure that it remains enclosed, and is not split up, not combined with other consignments nor has its packaging changed;

“control” means the suppression, containment or eradication of pest population;

“country” means the Kingdom of Swaziland/ Eswatini.

“detention” means keeping a consignment in official custody or confinement for phytosanitary reasons, and “detainment” or “detain” shall have a corresponding meaning;

“emergency measure” means a phytosanitary measure established as a matter of urgency in a new or unexpected phytosanitary situation, which may or may not be a provisional measure without full technical justification;

“endangered area” means an area where ecological factors favour the establishment of a pest whose presence in the area will result in economically important loss;

“government” means the Government of the Kingdom of Swaziland/ Eswatini;

“import permit” means an official document authorizing importation of a plant, plant product or other regulated article in accordance with specified phytosanitary requirements;

“incursion” means an isolated population of a pest recently detected in an area, not known to be established, but expected to survive for the immediate future;

“infestation” means presence of a living pest or plant product concerned and includes infection and “infested” shall have a corresponding meaning;

“inspection” means the official visual examination of plants, plant products or regulated articles to determine if pests are present and/or to determine compliance with phytosanitary requirements;

“inspector” means the person authorized by the National Plant Protection Unit to discharge its functions;

“IPPC” the International Plant Protection Convention of 1997;

“minister” means the Minister responsible for agriculture;

“ministry” means the Ministry responsible for agriculture;

“National Plant Health Inspectorate Service” or “NaPHIS” means the unit established under section 3 of this Act;

“official” means established, authorized or performed by the NaPHIS;

“official control” means the active enforcement of mandatory phytosanitary measures with the objective of eradication or containment of quarantine pests or the limitation of the economic impact of regulated non-quarantine pests;

“outbreak” means a recently detected pest population, including an incursion, or a sudden significant increase of an established pest population in an area;

“owner” in relation to anything includes any person having for the time being in possession, custody or control thereof;

“pest” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;

“pest risk analysis” means the process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

“phytosanitary action” means an official operation, such as inspection, testing, surveillance or treatment, undertaken to implement phytosanitary measures;

“phytosanitary certificate” means a certificate in conformity with the model phytosanitary certificate of the IPPC, and which is set out in Schedule to this Act;

“phytosanitary clearance certificate” means a certificate issued by an inspector certifying that he has inspected a consignment and that it does not present any risk for the introduction or spread of quarantine pests;

“phytosanitary measure” means any official measure having the purpose to prevent the introduction or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests;

“phytosanitary requirement” means any condition on import to be met by a consignment of a particular plant, plant products or other regulated articles from a specific origin, having the purpose to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests;

“place of production” means any premises or collection of fields operated as a single production or farming unit, and may include production sites which are separately managed for phytosanitary purposes;

“plant” means any living plant and parts thereof, including seeds and germplasm;

“plant product” means any un-manufactured material of plant origin (including grain) and those manufactured products which, by their nature or that of their processing, may create a risk for the introduction and spread of pests;

“point of entry” means an airport or land border point designated by the Minister for the importation of consignments, and/or entrance of passengers;

“provisional measure” means a phytosanitary measure established without technical justification owing to current lack of adequate information;

“quarantine” means official confinement of plants, plant products or regulated articles for observation and research or for further inspection, testing or treatment;

“quarantine area” means an area within which a quarantine pest is present and is being officially controlled;

“quarantine pest” means a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled, and which is declared as such under this Act;

“re-export phytosanitary certificate” means the certificate in conformity with the model phytosanitary certificate for re-export of the IPPC, and which is set out in Schedule to this Act;

“regulated article” means any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harboring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved;

“regulated non-quarantine pest” means a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is declared as such under this Act;

“regulated pest” means a quarantine pest or a regulated non-quarantine pest;

“SADC” means the Southern Africa Development Community

“surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;

“technical justification” means justification on the basis of conclusions reached by using an appropriate pest risk analysis or, where applicable, another comparable examination and evaluation of available scientific information;

“test” means official examination, other than visual, to determine if pests are present or to identify pests;

“treatment” means an officially authorized procedure for the killing or removal of pests or rendering pests infertile.

“Nursery” means

PART II

ESTABLISHMENT OF NATIONAL PLANT HEALTH INSPECTORATE SERVICE

Establishment of the National Plant Health Inspectorate Service

3. (1) There is established in the Ministry of Agriculture a unit to be called the National Plant Health Inspectorate Service (NaPHIS).

(2) The unit shall be under the head of the department responsible for agricultural research and specialists.

(3) The unit shall have such departments as determined by the head of department.

- (4) The person in charge of the Unit shall be a person qualified in plant protection.

Functions of the National Plant Health Inspectorate Service

4. The National Plant Protection Health Inspectorate Service shall –
- (a) issue phytosanitary certificates for consignments of plants, plant products and other regulated articles intended for exports;
 - (b) carry out surveillance of growing plants, including areas under cultivation and wild flora, and of plants and plant products in storage or in transport, for the purpose of reporting the occurrence, outbreak and spread of pests, and of controlling those pests;
 - (c) Inspect and test consignments of plants, plant products and other regulated articles for the purpose of preventing the introduction and control the spread of pests;
 - (d) order treatment of consignments of plants, plant products and other regulated articles moving in international traffic, for the purpose of meeting phytosanitary requirements;
 - (e) protect endangered areas, designate, maintain and survey pest free areas and areas of low pest prevalence;
 - (f) conduct pest risk analyses;
 - (g) issue import permits, based on pest risk analyses, in respect of consignments of plants, plant products or other regulated articles imported into the country;
 - (h) ensure the phytosanitary security of consignments after certification and prior to export;
 - (i) regulate the movement of biological control agents within, from or into the country;
 - (j) Carry out training and development of inspectors and other staff members of the National Plant Health Inspectorate Services;
 - (k) distribute information regarding regulated pests and the means of their prevention and control;
 - (l) provide justification to other countries concerning phytosanitary measures applied, either through reference to applicable international standards or pest risk analysis;
 - (m) notify trading partners of relevant instances of non-compliance with import requirements;
 - (n) notify phytosanitary measures to IPPC and other countries in accordance with international obligations;

- (o) compile a list of regulated pests and whenever necessary make the list available to international or regional organizations of which the country is a member;
- (p) representing the country in bilateral, regional or international organizations;
- (q) develop pest diagnostic, investigative and analytical capabilities as well as establishing laboratories and quarantine stations at such places as may be deemed necessary;
- (r) register nurseries;
- (s) carry out enforcement of this Act and any other legislation relating to plant protection that the Minister may identify; and
- (t) perform other functions assigned by the Minister in order to further the purpose of this Act.

Appointment of inspectors

5. (1) The Minister may appoint or designate officers of the unit to be inspectors for the purpose of carrying out the functions assigned to inspectors under this Act.

(2) The Minister may appoint in writing, any suitably qualified public official to serve as a temporary inspector for the purpose of carrying out the functions assigned to inspectors under this Act in the event of an outbreak of plant pests.

(3) An appointment made under sub-section (2) shall not exceed a period six months, unless otherwise authorized by the Minister.

(4) Any inspector appointed under sub-sections (1) and (2) shall perform such functions as may be specified in writing in the instrument of appointment.

Functions of inspectors

6. Inspectors shall –

- (a) inspect plants, plant products and other regulated articles in order to report the occurrence, outbreak and spread of regulated pests;
- (b) inspect consignments of plants, plant products and other regulated articles destined for import into the country to determine whether they are infested with regulated pests, and, where necessary, verify the pest status of consignments by taking samples and testing the samples;
- (c) inspect consignment of plants, plant products and other regulated articles destined for export to determine whether they are infested by regulated pests, and, where necessary, verify the pest status of consignments by taking samples and testing the

samples to ensure compliance with the phytosanitary requirements of the importing country;

- (d) ensure the treatment of plants, plant products and other regulated articles destined for import into the country is conducted in accordance with phytosanitary requirements;
- (e) Issue phytosanitary certificates on behalf of the unit and ensure that exports of plants, plant products and other regulated articles comply with the phytosanitary requirements of the importing country;
- (f) Issue import permits on behalf of the unit in respect of consignments of plants, plant products or other regulated articles imported into the country;
- (g) Institute inquiries and request information or documentation from any person suspected to violate this Act;

Powers of inspectors

7. An inspector may, on production of the relevant authority –

- (a) enter any land or premises to carry out any of the functions assigned under this Act;
- (b) declare such land or premises to be quarantined by notice in writing served on the owner or occupier of such land or premises declare such land or premises to be quarantined for a definite period;
- (c) by order in writing served on the owner or occupier of such land or premises require the occupier to carry out in the manner and within the time stated therein such measures as may be necessary to combat the quarantine pest;
- (d) require any person to produce any documentation required under this Act, inspect and make copies of such documentation, and seize the documents;
- (e) stop and search, without a warrant, any person, baggage, packaging, conveyance or any other regulated article, upon entry into, movement within or exit from the country; and
- (f) stop, for a specified time, the distribution, sale or use of any plant, plant product or other regulated article, which the inspector has reason to believe the plant is harbouring a regulated pest.

PART III

REGULATED PESTS AND QUARANTINE PESTS

Declaration of regulated pests

8. (1) The unit may declare a pest to be a quarantine pest or a regulated non-quarantine pest based on pest risk analysis.
- (2) The Minister shall, after the declaration made in sub – section (1), publish in the gazette the list of regulated pests.
- (3) The unit shall keep and where necessary update a list of quarantine pest(s), regulated non-quarantine pest and national pest list.

Duty to notify regarding quarantine pests

9. Any person who suspects or has knowledge about the presence of a quarantine pest in the country shall immediately notify the unit through the nearest inspector or by any other appropriate means.

Measures to be taken in cases of quarantine pest outbreak

10. (1) If an inspector suspects that a quarantine pest may be present at any place, the inspector may enter into such place at any reasonable time to –
- (a) inspect any plants, plant products or other regulated articles;
 - (b) take such samples as may be considered necessary for testing to verify the presence of the quarantine pest; or
 - (c) declare such place a provisional quarantine area.
- (2) Upon declaration under sub-section (1) (c), the unit may take emergency measures.
- (3) Where a provisional quarantine area has been declared, the unit shall, within one month –
- (a) declare the area of premises that is infested or is suspected to be infested with the quarantine pest to be a quarantine area as set out in section 11 of this Act; or
 - (b) revoke the provisional quarantine declaration.

Declaration of quarantine areas

11. (1) Where the unit determines that an area is infested with a quarantine pest, it may declare the area to be a quarantine area.

(2) The unit shall publish in the gazette the declaration of a quarantine area, setting out the period of quarantine as well as conditions of quarantine.

Implementation of control measures

12. (1) Any area or premises infested or suspected to be infested by a quarantine pest or any buffer zone, pest free area or area of low pest prevalence may be subject to the following official control measures –

- (a) mandatory pest control treatment or disposal of plants, plant products and other regulated articles;
- (b) prohibition or restriction of the movement of any plant, plant product or other regulated article from, within, or into the infested area;
- (c) prohibition of planting or replanting of specific plants in a specified location; or
- (d) any other phytosanitary measure which the unit may deem to be necessary under the circumstances.

(2) The unit may notify the owner or occupier of such area or premises to take control measures on the area within a specified period of time.

(3) If an owner or occupier fails to comply with any terms of the notification, the unit may authorize any inspector to enter upon the area or the premises in order to carry out the control measures required by the notification or where circumstances so require, destroy plants, plant products or other regulated articles.

(4) The costs and responsibility for any action taken under sub-section 3 shall be borne by the owner or occupier of the premises.

(5) The unit or its agents shall bear no liability for the destruction of plants, plant products or other regulated articles in the course of or as a result of the implementation of any control measure under this section, although in circumstances to be prescribed by regulations, compensation may be payable.

Revoking of condition of quarantine areas

13. The unit shall regularly review the situation in respect of any quarantine area and shall, by a gazette and a written notice served on all owners or occupiers of the infested area, revoke the quarantine as soon as –

- (a) the relevant quarantine pest is considered no longer to be present; or
- (b) it is no longer appropriate for the quarantine to be maintained in respect of part or all of the infested area;

**PART IV
PEST FREE AND LOW PEST PREVALENCE AREAS**

Declaration of pest free areas, places of production and production sites.

14. Where the unit is satisfied through adequate surveillance that a specific pest is not present in an area, in a place of production or production site may after –

- (a) implementing phytosanitary measures; and
- (b) instituting a monitoring system to verify that the pest free status is maintained;

declare the area a pest free area, place of production or production site for the purposes of the export of plants and plant products from that area.

Declaration of areas of low pest prevalence

15. Where the unit is satisfied that a regulated pest occurs at low levels in an area and or adopts phytosanitary measures to keep the pest levels low and or institutes a surveillance system to verify that the pest levels remain low, the unit may declare the area as an area of low pest prevalence for the purposes of the export of plants and plant products from that area.

PART V
IMPORTS

Phytosanitary measures for imports

16. (1) The unit may impose the following measures in order to prevent the introduction and spread of regulated pests during importation –

- (a) establish phytosanitary requirements and require phytosanitary measures as conditions of import of plants, plant products and other regulated articles;
- (b) designate certain places as plant quarantine stations where plants, plant products and other regulated articles may be kept for testing, treatment, detention or destruction;
- (c) take phytosanitary action, including emergency measures and provisional measures.

(2) Phytosanitary measures that are specified under this section shall be necessary to protect plant health and shall be based on existing international standards ISPMs or otherwise be technically justified.

(3) As conditions change and new facts become available, the unit shall modify or revoke phytosanitary measures where necessary, immediately.

(4) The unit may require phytosanitary measures only for regulated pests.

(5) The unit may negotiate bilateral and multilateral agreements for the evaluation and possible acceptance of alternative phytosanitary measures proposed by the unit or equivalent institutions of the exporting country as being equivalent to the phytosanitary measure required under sub-section (1) (a).

(6) The unit shall communicate phytosanitary requirements established under sub-section (1) (a) and any modification to the same under sub-section (3) to the Minister for publication in the gazette.

Import requirements

17. (1) A consignment shall be imported into the country –

- (a) by authority of an import permit granted by the unit upon application and payment of a fee by an importer;

- (b) where accompanied by an original phytosanitary certificate issued by the responsible authority of the exporting country, such certificate shall be dated no more than thirty days before the entry of the consignment into the country; and
- (c) at the points of entry that are designated by the Minister upon advice of the unit.

(2) The unit may exempt such plant, plant products and regulated articles from an import permit by order on the basis of a pest risk analysis.

(3) The unit may issue an import permit in respect of any consignment to be imported, for the purpose of education, research or experiment on the basis of a pest risk analysis.

(4) In the case of a decision by the unit to prohibit the import of plants, plant products or other regulated articles, the unit shall notify the importer of the decision not to issue an import permit.

(5) The unit may revoke an import permit at any time by written notice, setting out the reasons for such revocation.

Inspections at the point of entry

18. (1) All consignments shall, upon importation into the country, be subject to inspection at the point of entry by an inspector.

(2) Upon application by the importer and where the container has been sealed and marked as prescribed by regulation under this Act, certain plants, plant products or other regulated articles may be inspected by an inspector at their final destination.

(3) All inspections carried out under this Act shall be conducted as promptly as possible and shall be subject to a fee payable by the importer.

Post-inspection measures

19. (1) If upon inspection carried out in accordance with section 22 of this Act, the inspector determines that the consignment is accompanied by all the documentation required under section 21 sub-section (1) (a) and (b) and does not present any risk for the introduction or spread of quarantine pests, or for the economic impact of regulated non-quarantine pests, the inspector shall clear the consignment for delivery to customs control by a phytosanitary clearance certificate served to the importer.

(2) Customs officers shall only clear a consignment for delivery on presentation by the importer, of a phytosanitary certificate.

(3) If, upon inspection carried out in accordance with section 22 of this Act, the inspector determines that the consignment is not accompanied by all the relevant documentation required under section 21 of this Act, or it presents any risk for the introduction or spread of quarantine pests, or for the economic impact of regulated non-quarantine pests, the inspector shall serve a written notice to the importer that a part or the whole consignment be subject, within a determined period of time to –

- (a) detention until the collection of additional information or the completion of sampling and testing;
- (b) removal, including for treatment, to a quarantine station or any other location identified by the unit;
- (c) reshipment; or
- (d) destruction.

(4) The costs and responsibility for any action taken under sub-section (3) shall be borne by the importer.

Duty of notification of arrival

20. (1) Importers shall report the arrival of any consignment of plants, plant products or other regulated articles and apply for phytosanitary inspection to the inspector in charge of the point of entry.

(2) Customs officers, police officers and any other person who has knowledge of the arrival of any plants, plant products or other regulated articles in the country, shall promptly report such arrival to an inspector and shall detain such plants, plant products or other regulated articles until the inspector takes custody of them.

(3) Any detention carried out under sub-section (2) shall be deemed to be an action taken on delegation of the unit.

PART VI

REQUIREMENTS FOR EXPORT, RE-EXPORT AND TRANSIT

Phytosanitary certification for export

21. (1) In a case where the importing country establishes phytosanitary requirements in respect of import of plants, plant products or other regulated articles from the country that require the issuance of a phytosanitary certificate, or treatment, or testing the exporter shall –

- (a) apply to the unit for a phytosanitary certificate, including an additional declaration if so required by the importing country;
- (b) provide all documentation required by regulations;
- (c) make the consignment available for inspection; and
- (d) pay any applicable fee.

(2) The unit shall, upon application by an exporter under sub-section (1), cause an inspection of the consignment to be conducted without delay.

(3) Upon inspection under sub-section (2) the unit shall –

- (a) issue a phytosanitary certificate, including an additional declaration if so required by the importing country, where the consignment meets the phytosanitary requirements of the importing country;
- (b) refuse certification where the phytosanitary requirements of the importing country have not been met.

Re-export phytosanitary certification

22. (1) Where a consignment imported into the country has been opened or re-packed and then exported to another country, and there are reasonable grounds to determine that the consignment has not been infected, the unit shall issue a re-export phytosanitary certificate, subject to payment of a fee by the exporter.

(2) The original phytosanitary certificate or a certified copy shall accompany any consignment to be re-exported under sub-section (1).

Transit Consignment

23. (1) Transit of the consignment through the territory of the country shall be given clearance in writing within fourteen days by the unit upon application and payment of a fee by the importer.

(2) Import requirements under this Act do not apply to a consignment carried in transit through the country where the consignment –

- (a) has been packed in such a way that no risk of introduction or spread of regulated pests may be present in the consignment;
- (b) as well as the documents comply with the import regulations of the country of destination;
- (c) is in conformity with the phytosanitary certificate of the country of origin.

PART VII

OFFENCES AND PENALTIES

Offences

24. A person either personally or through an agent who –

- (a) grows, possess, sell, offer for sale, transport or distribute in any manner any plants, plant products or other regulated articles knowing that they are infested by a quarantine pest;
- (b) imports any plant, plant products or other regulated articles at a point of entry not designated by the Ministry;
- (c) imports any plant, plant products or other regulated articles contrary to the requirements prescribed under this Act;
- (d) intentionally permit or cause the introduction or spread of any regulated pest;
- (e) export any plants, plant products or regulated articles contrary to the requirements prescribed under this Act;
- (f) fails to safeguard the phytosanitary security of a consignment after issuance of a phytosanitary certificate before export;
- (g) refuses to permit a search or inspection or the taking of any sample authorized under this Act;

- (h) breaks the seal on a sealed container containing plants, plant products or regulated articles in the absence of an inspector;
- (i) knowingly or recklessly provide information that is false, for the purpose of obtaining any document under this Act;
- (j) alter, forge, deface or destroy any document issued under this Act;
- (k) assault, resist, intimidate, threaten or obstruct any inspector exercising lawful powers under this Act;
- (l) fail to comply with any order or direction lawfully made or given under this Act;
commits an offence.
- (2) An inspector who –
 - (a) in connection with any official duties, directly or indirectly ask for or to take any personal payment or other reward;
 - (b) agree to do, abstain from doing, permit, conceal or connive to do any act or thing which is contrary to the proper execution of official duties under this Act or otherwise contrary to the laws of the country;
 - (c) discloses any information acquired in the performance of his official duties relating to any person, firm or business, except when required by his supervisor in the course of official duties or where ordered to do so by a court;
commits an offence.

Penalties

- 25. (1) Any person who commits an offence under this Act shall –
 - (a) on a first conviction, be liable to a fine not exceeding five thousand Emalangeni or imprisonment for a period not to exceeding twelve months or both;
 - (b) on a second or subsequent conviction, be liable to a fine not exceeding Ten Thousand Emalangeni or imprisonment for a period not exceeding twenty-four months or both such fine and imprisonment.
- (2) A court convicting a person of an offence under this Act may, in addition to any other penalty imposed, order that anything used in the perpetration of the offence,

be forfeited to the Government.

- (3) Penalties under sub-section (1) shall be regularly updated by the Minister in regulations accompanying this Act.

PART VIII

MISCELLANEOUS PROVISIONS

International Matters

26. (1) The unit shall co-operate with other Governments, regional and international organizations in order to protect plant resources within and outside the national borders, from the introduction and spread of plant pests, in particular co-operate in –

- (a) the exchange of information on plant pests, particularly the reporting of occurrence, outbreak or spread of pests that may be of danger to plants;
- (b) providing technical and biological information necessary for pest risk analysis;
- (c) activities of Regional Plant Protection Organizations in the SADC.

(2) The Inter African Phytosanitary Council, or any similar organization that may be established, shall be the Regional Plant Protection Organization to which Swaziland shall affiliate.

(3) The unit shall designate a contact point for the exchange of information on plant pests.

Authorities to assist and co-operate

27. Customs officers, police officers, postal, local authorities and any other person shall assist inspectors in the performance of their functions and exercise of their powers under this Act by providing such facilities and assistance as the unit may request from time to time.

Appeals

28. (1) Any land owner, owner or operator of a conveyance or importer of plant, plant products or other regulated articles who is aggrieved by the decision of an inspector to detain, treat, destroy or otherwise dispose of those articles, may lodge an appeal before the NPPU in the manner prescribed by regulations.

(2) Any land owner, owner or operator of a conveyance or importer of plant, plant products or other regulated articles who is aggrieved by the decision of the unit under sub-section (1) may lodge an appeal before the Minister in the manner prescribed by regulations.

(3) The decision of the Minister on any appeal lodged under sub-section (1) shall not prejudice the right of any aggrieved party to seek recourse in the courts.

Regulations

29. (1) The Minister may make regulations generally for the better carrying out of the purposes of this Act and without prejudice to the foregoing generality, to provide for –

- (a) designation of points of entry for the importation of consignments;
- (b) the procedure by which forms, permits and certificates shall be issued under this Act, and their format, content and language;
- (c) a list of regulated pests and the measures that may be taken against them to ensure phytosanitary compliance with national requirements;
- (d) the procedure by which an area, a place of production or a production site may be declared pest free, or an area may be declared an area of low pest prevalence;
- (e) the procedure by which phytosanitary requirements for import of plants, plant products and other regulated articles are to be issued and published by the unit;
- (f) the procedure by which an appeal against actions taken by inspectors under this Act may be lodged before the unit and the Minister;
- (g) circumstances under which compensation is payable under section 12 sub-section (5);
- (h) conditions upon which consignments may be inspected at their final destination under section 18 sub-section (2) of this Act;
- (i) the level of fees payable under this Act;
- (j) official rules and implementing procedures that are applicable generally for implementing phytosanitary measures under this Act, other than those listed in this section; and
- (k) registration of nurseries.

Relationship with other relevant legislation

30. A person shall not, in the exercise of his authority under any law regulating the import and export of any plants, plant products and other regulated articles, issue any permit required under any such law, unless the person applying for such permit has obtained an import permit or a phytosanitary certificate issued by the unit under this Act.

Repeal

31. The Plant Control Act, 1981 is hereby repealed.