

CHAPTER 233

THE PLANT PESTS AND DISEASES ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. This Act binds the Republic

PART II

ERADICATION AND PREVENTION OF THE SPREAD OF PESTS

4. Regulatory powers to eradicate pests, etc.
5. Regulatory powers to inspect, disinfect and fumigate vehicles
6. Minister may make different regulations, etc.
7. Duty of owner to eradicate pests

PART III

CONTROL OF THE IMPORTATION OF GROWING MEDIA, INJURIOUS ORGANISMS, INVERTEBRATES AND PLANTS

8. Interpretation of term in Part III
9. Regulatory powers to control import of growing media, etc.
10. Powers of inspectors in relation to imported growing media, etc.
11. Seizure, detention and destruction of growing media, etc., unlawfully imported

PART IV

SPECIAL PROVISIONS RELATING TO CURED

TOBACCO

12. Handling, storing and removal of cured tobacco
13. Licensing of premises
14. Section 12 (a) and section 13 to apply to premises of certain growers only
15. Orders prohibiting handling and storing in and removal to or from premises of cured tobacco
16. Discovery of pests on premises

Section

17. Removal of cured tobacco from pest infested premises, etc., prohibited
18. Permits for removal of cured tobacco from pest infested premises, etc.
19. Costs of inspection
20. Destruction of cured tobacco handled or stored or removed in contravention of Part IV
21. Regulatory powers in connection with pests

PART V

GENERAL

22. Appointment of inspectors
23. Powers of inspectors
24. Sale of pest infested plants by nurserymen
25. Appeals against orders of destruction
26. Compensation
27. Limitation of actions against the State
28. Offences
29. General regulatory powers
30. Conditions contained in permits
31. Repeal
32. Saving

CHAPTER 233

THE PLANT PESTS AND DISEASES ACT

Act No.
11 of 1958
13 of 1994

An Act to provide for the eradication and prevention of the spread of plant pests and diseases in Zambia, for the prevention of the introduction into Zambia of plant pests and diseases, and for matters incidental thereto.

[1st January, 1959]

Government
Notices
90 of 1964
497 of 1964
Statutory
Instruments
57 of 1965
176 of 1965

PART I PRELIMINARY

1. This Act may be cited as the Plant Pests and Diseases Act.
(As amended by G.N. No. 90 of 1964)

Short title

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

Interpretation

"alternate host" means a plant which is declared to be an alternate host of a pest in terms of paragraph (b) of subsection (2);

"board" means a board appointed in terms of subsection (5) of section twenty-five;

"container" means a case, package, pot, sack or other article containing a growing medium, injurious organism, invertebrate or plant and includes a covering, wrapping or packing material used in the packing of a growing medium, injurious organism, invertebrate or plant;

"cured tobacco" means tobacco which is not-

(a) cigars, cigarettes, pipe tobacco, plug or rolled tobacco, snuff or any like product; or

(b) tobacco leaves, flowers or stalks in a green state; or

(c) living tobacco plants;

"disease" means a pathological condition of plants communicable or believed to be communicable by the transfer of a causative agent or by

the propagation of an infected plant;

"grower", in relation to tobacco, means a person who by himself or his agents grows tobacco;

"growing medium" means a medium, including soil, capable of being used for the propagation or culture of plants;

"host plant" means a plant which is capable of being the host of a pest;

"infested area" means an area declared in terms of this Act to be an infested area;

"injurious organism" means any organism or like agent whatsoever, including a virus, which is-

- (a) inimical to the growth or existence of living plants; or
 - (b) injurious to plant products; or
 - (c) capable of producing a disease of plants;
- in whatever stage of development it may be;

"inspector" means an inspector appointed in terms of section *twenty-two*;

"invertebrate" means a living invertebrate animal organism in whatever stage of development it may be;

"nursery" means land or premises where nursery stock is grown or cultivated and includes other land or premises adjacent thereto, held by the same owner, where plants are grown;

"nursery man" means the owner or other person responsible for the management of a nursery;

"nursery stock" means plants grown or cultivated for the purpose of trade, and with the intention of their being sold or distributed for the purpose of their being grown elsewhere than on the land or premises on which they stand, but does not include vegetables, annuals, herbaceous plants or ferns;

"owner", in relation to land or premises, includes a joint owner, part owner, lessee or occupier or the agent of an owner, joint owner, part owner, lessee or occupier;

"Permanent Secretary" means the Permanent Secretary, Ministry of Agriculture;

"pest" means an injurious organism which is declared to be a pest in terms of paragraph (a) of subsection (2);

"plant" means a member of the vegetable kingdom whether living or dead and includes-

- (a) tubers, bulbs, corns, roots, cuttings, grafts, seeds and fruits; and

- (b) any part of a plant whether severed there-from or not; and
- (c) an unmanufactured plant product;

"premises", in relation to cured tobacco, means a warehouse, building or structure in which such tobacco is handled or stored, and includes the land held by the owner of the warehouse, building or structure-

- (a) on which the warehouse, building or structure is situate; or
- (b) which may be adjacent to land referred to in paragraph (a);

but does not, unless the Minister by order otherwise provides, include a warehouse, building, structure or land referred to in this definition which is used solely for the purpose of storing and manufacturing cured tobacco and from which no cured tobacco is removed;

"quarantine area" means an area declared in terms of this Act to be a quarantine area;

"vehicle" includes an aircraft, railway train and ship.

(2) For the purposes of this Act, the Minister may by regulation, statutory order or statutory notice-

(a) declare an injurious organism to be a pest either generally or in respect of a particular type of plant and either with a view to its complete eradication or its control or the prevention of its spread or for some other purpose; and

(b) declare a plant to be an alternate host of a pest.

(As amended by G.N. No. 90 of 1964 and S.I. No. 57 of 1965)

3. The provisions of this Act bind the Republic.

(G.N. No. 90 of 1964 as amended by S.I. No. 57 of 1965)

This Act binds
the Republic

PART II

ERADICATION AND PREVENTION OF THE SPREAD OF PESTS

4. (1) The Minister may by regulation, statutory order or statutory

Regulatory

notice provide for the eradication of pests or the prevention or control of attacks by or the spread of pests. powers to eradicate pests, etc.

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made in terms of that subsection provide for-

- (a) the disinfection, treatment, destruction or disposal of-
 - (i) pests; or
 - (ii) plants infested or appearing to be infested with a pest; or
 - (iii) anything whatever whether similar in nature to a plant or not which, in the opinion of the Minister, is liable to infest a plant with a pest;
- (b) the prohibition, restriction and regulation of the removal or transport of pests, plants or things referred to in paragraph (a);
- (c) the control and destruction of host plants not under cultivation for the current season's crop and of alternate hosts;
- (d) the prohibition, restriction and regulation of the cultivation and harvesting of plants if, in the opinion of the Minister, a pest cannot otherwise be readily or adequately controlled or eradicated;
- (e) the reporting of the occurrence of a pest and the collection and transmission of specimens of a pest;
- (f) the methods of planting, cleaning, cultivating and harvesting to be adopted and the precautions and measures, including the destruction of plants, to be taken by an owner of land for the purpose of preventing or controlling attacks by or the spread of a pest;
- (g) the destruction after harvest of a particular kind of plant by a specified date;
- (h) the registration and inspection of nurseries and the imposition of registration fees, the regulation of the sale or removal of plants from nurseries and the prohibition of the sale or exposure for sale of nursery stock not grown in registered nurseries;

(i) the disinfection, fumigation and treatment of land, warehouses, buildings and structures suspected of being or having been used for the storage of anything likely to infest a plant with a pest;

(j) the declaration of areas infested with a pest as infested areas and of areas around infested areas as quarantine areas and the prohibition, restriction and regulation of the removal of compost, growing media, manure, plants and other things whatsoever to or from infested or quarantine areas;

(k) the payment and recovery of fees for a disinfection, fumigation or treatment carried out by an inspector, or for services rendered by an inspector in connection with a disinfection, fumigation or treatment, or for an inspection carried out by an inspector at the request of an owner of land, warehouses, buildings, structures, plants or other things;

(l) the power of an inspector if he reasonably suspects the presence of a pest on land, or in premises, to declare the area in which the land or premises is situate an infested area and by order to prohibit for a period not exceeding fourteen days, the removal from the land or premises of compost, growing media, manure, plants and other things whatsoever capable of spreading a pest.

5. The Minister may, by regulation, provide for-

(a) the inspection, disinfection or fumigation of vehicles which are suspected of harbouring an injurious organism;

(b) the payment and recovery of fees for the inspection, disinfection or fumigation of vehicles referred to in paragraph (a) or for services rendered by an inspector in connection therewith.

Regulatory powers to inspect, disinfect and fumigate vehicles

6. In regulations, orders or notices made in terms of section *four* or *five*, the Minister may make-

(a) different provision in respect of different growing media, injurious organisms, pests, plants, vehicles, areas and types and classes of land, warehouses, buildings and structures;

(b) provision exempting, subject to such conditions as he may specify, any person or classes of persons from complying therewith.

Minister may make different regulations, etc.

7. (1) An owner of land or premises shall take all measures prescribed

Duty of owner

and such additional or such alternative measures as are reasonably necessary for the eradication, reduction or prevention of the spread of a pest which an inspector may, subject to the provisions of subsection (2), by notice in writing order him to take. to eradicate pests

(2) An inspector shall not order the destruction of a living plant in terms of subsection (1) unless authorised to do so by regulation, order or notice made in terms of section *four*.

(3) If an owner of land or premises fails to take all or any of the measures which he is required to take in terms of subsection (1), an inspector may-

(a) on giving the owner not less than seven days' notice in writing of his intention so to do, cause the measures to be taken; or

(b) if he is satisfied that the measures must be taken without delay, cause the measures to be taken immediately without giving the notice referred to in paragraph (a).

(4) An owner of land or premises shall, without prejudice to any penalty incurred by reason of his failure to take the measures which he is required to take in terms of subsection (1), be liable to pay the costs of the measures which an inspector causes to be taken in terms of subsection (3).

(5) The Minister may by civil action in a competent court recover from an owner of land or premises the costs of measures which an inspector causes to be taken in terms of subsection (3).

PART III

CONTROL OF THE IMPORTATION OF GROWING MEDIA, INJURIOUS ORGANISMS, INVERTEBRATES AND PLANTS

8. In this Part, "importation", in relation to growing media, injurious organisms, invertebrates or plants, means the importation into or the Interpretation of term in Part III

transit through Zambia of growing media, injurious organisms, invertebrates or plants, and cognate expressions shall be construed accordingly.

(As amended by G.N. No. 90 of 1964)

9. (1) The Minister may by regulation, statutory order or statutory notice provide for the prohibition, restriction and regulation of the importation of any-

Regulatory powers to control import of growing media, etc.

(a) growing media; and

(b) injurious organisms and invertebrates; and

(c) plants and the growing media in which plants are growing or to which plants are attached or which may be adhering to plants; together with their containers.

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made in terms of that subsection-

(a) authorise or require the detection and inspection on importation of growing media and plants and their containers;

(b) direct or authorise the disinfection, fumigation or treatment of imported growing media and plants and their containers;

(c) authorise the immediate destruction, without compensation, of imported growing media and plants which on inspection appear to be infested with an injurious organism and of any plants included in the same container, if the injurious organism is of a specially dangerous character or in the opinion of the inspector-

(i) disinfection is impracticable or will not be a complete safeguard; or

(ii) the delay caused by disinfection would give rise to the risk of the introduction or spread of the injurious organism;

(d) authorise the immediate destruction, without compensation, of

an imported invertebrate if, in the opinion of an inspector, the invertebrate might be a potential danger to agriculture;

(e) prohibit the importation of growing media, invertebrates and plants except by specified ports or places of entry and routes and by specified methods of transport;

(f) direct or authorise the detention of imported growing media, invertebrates and plants for observation and prescribe the precautions to be taken during detention;

(g) provide for the imposition and recovery of fees for sorting, disinfecting, fumigating or treating growing media and plants on importation;

(h) provide for the disposal of imported growing media and plants in respect of which prescribed fees are not paid and of the proceeds, if any, resulting from their disposal;

(i) provide for the issue of permits as a pre-requisite to the importation of growing media, injurious organisms, invertebrates and plants;

(j) provide for the production of certificates signed by responsible persons or authorities in the country or territory of origin relating generally or specifically to-

(i) the freedom of imported growing media, invertebrates and plants or the area in which they were produced or grown from injurious organisms; and

(ii) the fumigation or other processes of disinfection or treatment of imported growing media and plants before despatch;

(k) provide for the production of certificates of origin of imported growing media, injurious organisms, invertebrates and plants and for the furnishing by the importer of particulars relating to imported growing media, injurious organisms, invertebrates and plants.

(3) In regulations, orders or notices made in terms of subsection (1) the Minister may make different provision in respect of different growing media, injurious organisms, invertebrates and plants and in respect of different countries and territories from which growing media, injurious

organisms, invertebrates and plants are imported.

10. (1) An inspector may-

Powers of inspectors in relation to imported growing media, etc.

(a) at all reasonable times enter upon and inspect land, buildings, structures or vehicles on or in which growing media, injurious organisms, invertebrates and plants and their containers are kept or conveyed on importation; and

(b) inspect growing media, injurious organisms, invertebrates and plants referred to in paragraph (a) and, for the purpose of detecting injurious organisms, expose the roots of plants, remove bark or cut any plant or the fruit or flowers or other part of a plant, or open any container or package or wrapping reasonably suspected to contain growing media, invertebrates or plants liable to harbour an injurious organism.

(2) An importer of growing media, injurious organisms, invertebrates or plants and his servants and agents shall afford an inspector access thereto and shall give such information and provide such labour and facilities as the inspector may require for the purposes of carrying out any inspection, sorting, disinfection, fumigation or treatment of the growing media, injurious organisms, invertebrates or plants.

11. (1) Subject to the provisions of subsection (2), an inspector may order the seizure, detention and destruction without compensation of-

Seizure, detention and destruction of growing media, etc., unlawfully imported

(a) a growing medium; or

(b) an injurious organism or invertebrate; or

(c) a plant and the growing medium in which a plant is growing or to which a plant is attached or which is adhering to a plant;

together with its container, which-

- (i) is not accompanied at the time of importation by such a certificate of origin or other document as may be prescribed or is accompanied by a certificate of origin or other document which is incorrect in a material particular;
- (ii) is imported otherwise than in accordance with the conditions of a permit issued in terms of this Act;
- (iii) is imported in contravention of the provisions of this Act.

(2) If an importer or owner of a growing medium or plant referred to in subsection (1), which has not been declared by an inspector to be infested with an injurious organism, gives notice of his intention to appeal to a board in terms of subsection (1) of section *twenty-five* against the order of destruction, the order shall not have effect unless and until the period specified for lodging notice of appeal has elapsed, and no notice of appeal has been lodged, or the appeal is dismissed, withdrawn or abandoned.

PART IV

SPECIAL PROVISIONS RELATING TO CURED TOBACCO

12. Save as is provided in this Act, no person shall-

- (a) handle or store cured tobacco in or remove cured tobacco to or from or take delivery of cured tobacco removed from premises which are not licensed in terms of subsection (1) of section *thirteen*; or
- (b) handle or store cured tobacco in or remove cured tobacco to or from or take delivery of cured tobacco removed from premises in respect of which an order made in terms of subsection (1) of section *fifteen* has effect.

Handling,
storing and
removal of
cured tobacco

13. (1) Subject to the provisions of subsection (2), the Minister shall, on the application in the manner prescribed by an owner of premises, issue to the owner a licence authorising the handling or storing in and the removal to or from his premises of cured tobacco.

Licensing of
premises

(2) The Minister shall not issue a licence in respect of premises referred to in subsection (1) unless he is satisfied on the report of an inspector that the premises are suitable for the handling and storing of cured tobacco and are free from pests.

14. The provisions of paragraph (a) of section *twelve* and of section *thirteen* shall not apply in relation to premises owned by a grower unless the premises are used not only for handling or storing cured tobacco grown by the grower or his agents but also for handling or storing cured tobacco grown by other persons.

Section 12(a) and section 13 to apply to premises of certain growers only

15. (1) If, in the opinion of the Minister, premises are or have become unsuitable for the handling or storing of cured tobacco, the Minister may by order in writing prohibit the handling and storing of cured tobacco in and the removal of cured tobacco to or from the premises.

Orders prohibiting handling and storing in and removal to or from premises of cured tobacco

(2) The Minister shall notify the owner of premises in respect of which he has made an order in terms of subsection (1) of the repairs and alterations to the premises which the owner shall make in order to render the premises suitable for the handling and storing of cured tobacco.

(3) An inspector may order-

(a) the removal of cured tobacco from premises in respect of which an order made in terms of subsection (1) has effect to a place specified in the order; or

(b) if circumstances so require, the removal of cured tobacco from premises referred to in paragraph (a) and its delivery to a person specified in the order;

to facilitate the making of the repairs and alterations to the premises which are referred to in subsection (2).

(4) The Minister shall, subject to the provisions of section *nineteen*, cancel an order made in terms of subsection (1) when he is satisfied that the reason for making the order no longer exists.

16. (1) If an inspector discovers premises or cured tobacco stored in premises to be infested with a pest or confirms the existence of an infestation reported by an owner of premises in terms of subsection (2), the owner of the premises shall, within fourteen days of the date he is ordered to do so by the inspector, disinfect, fumigate or treat the premises and their contents in the manner ordered by the inspector.

Discovery of
pests on
premises

(2) An owner of premises who knows or has reason to believe that his premises or the cured tobacco stored therein are infested with a pest shall, within seven days, report the infestation in writing to the Permanent Secretary.

(As amended by S.I. No. 57 of 1965)

17. (1) No person shall, unless he is authorised to do so by order made in terms of subsection (2) or a permit issued in terms of section *eighteen*-

Removal of
cured tobacco
from pest
infested
premises, etc.,
prohibited

(a) remove cured tobacco or take delivery of cured tobacco removed from premises which are infested with a pest; or

(b) remove from premises cured tobacco which is infested with a pest or take delivery of any such cured tobacco.

(2) An inspector may order-

(a) the removal of cured tobacco from premises which are infested with a pest or the removal from premises of cured tobacco which is infested with a pest to a place specified in the order; or

(b) if circumstances so require, the removal of cured tobacco referred to in paragraph (a) and its delivery to a person specified in the order;

to facilitate the disinfection, fumigation or treatment of the cured tobacco or the premises.

18. (1) The Minister may issue a permit authorising, subject to such conditions as the Minister may specify in the permit-

Permits for removal of cured tobacco from pest infested premises, etc.

(a) the removal of cured tobacco from premises which are infested with a pest; or

(b) the removal from premises of cured tobacco which is infested with a pest;

and, if circumstances so require, the delivery of such cured tobacco to a person named in the permit, for such purposes as the Minister may approve.

(2) The Minister may at any time cancel a permit issued in terms of subsection (1).

19. An owner of premises shall be liable to pay the costs of an inspection of his premises made by an inspector in connection with-

Costs of inspection

(a) the cancellation of an order made in terms of subsection (1) of section *fifteen*; or

(b) an application for a permit referred to in subsection (1) of section *eighteen*;

and the Minister may refuse to cancel an order made in terms of subsection (1) of section *fifteen* or to issue a permit referred to in subsection (1) of section *eighteen* until the costs of the inspection have been paid.

20. An inspector may seize and detain and the Minister may order the destruction without compensation of cured tobacco which is handled or stored in or removed to or from premises otherwise than in accordance with the provisions of this Part or an order made thereunder or the conditions of a permit referred to in subsection (1) of section *eighteen*.

Destruction of cured tobacco handled or stored or removed in contravention

of Part IV

21. (1) Without derogation from the generality of the provisions of section *four*, the Minister may by regulation-

Regulatory powers in connection with pests

(a) provide for the compulsory disinfection, fumigation or treatment by such methods as he may specify of premises and of cured tobacco handled or stored therein;

(b) prohibit the keeping in or authorise the removal from premises of-

(i) products other than cured tobacco which are liable to be infested with a pest; or

(ii) anything, including products referred to in subparagraph (i), which renders the proper inspection of the premises impracticable;

(c) prescribe measures to be taken for the purpose of protecting or facilitating the protection of cured tobacco from infestation with a pest.

(2) In regulations made in terms of subsection (1) the Minister may make different provision in respect of different premises and pests and different classes and types of cured tobacco.

PART V

GENERAL

22. The Minister may appoint persons as inspectors for the purposes of this Act.

Appointment of inspectors

(G.N. No. 90 of 1964)

23. (1) An inspector may-

Powers of inspectors

(a) at all reasonable times enter upon and inspect lands, buildings, or

structures on or in which growing media or plants may be found; and

(b) inspect growing media and plants and, for the purpose of detecting pests, expose the roots of plants, remove bark or cut any plant or the fruit or flowers or other part of a plant, or open any container or package or wrapping reasonably suspected to contain growing media or plants liable to harbour a pest; and

(c) order the application of measures which are reasonably necessary or prescribed for the eradication or prevention of the spread of a pest; and

(d) order the destruction at any time of alternative hosts and any plant which is growing on land contrary to the provisions of this Act; and

(e) give instructions for the adoption of measures prescribed for the purpose of protecting cured tobacco from infestation with a pest of tobacco or of facilitating such protection; and

(f) declare a nursery infested with a pest or such portion thereof as he deems sufficient to be an infested area until such time as the nursery or portion thereof is free from the pest.

(2) An owner of any land, building or structure or of a growing medium or plant and his servants and agents shall afford an inspector access thereto and shall give such information and provide such labour and facilities as the inspector may require for the purposes of carrying out an inspection.

(As amended by G.N. No. 90 of 1964)

24. If, within three days of the delivery to him of plants sold by a nurseryman, the purchaser of the plants finds the plants to be infested with a pest, he may return the plants to and at the expense of the nurseryman and shall thereupon be freed from liability to pay for the plants or, if he has paid for the plants, he may recover the purchase price.

Sale of pest
infested plants
by nurserymen

25. (1) Subject to the provisions of subsection (2), the importer or owner of a growing medium or plant the destruction of which has been ordered in terms of this Act may, within seven days of the date of the order, lodge with the Minister a notice of his intention to appeal against

Appeals against
orders of
destruction

the order.

(2) There shall be no right of appeal against-

(a) an order for the destruction of a growing medium or plant declared by an inspector to be infested with an injurious organism or pest; or

(b) an order of destruction made in terms of paragraph (d) of subsection (1) of section *twenty-three*.

(3) A notice of intention to appeal lodged in terms of subsection (1) shall be in writing and shall specify in detail the grounds upon which it is given.

(4) The Minister shall transmit to a board a notice lodged with him in terms of subsection (1).

(5) For the purpose of hearing and determining an appeal against an order of destruction the Minister shall, subject to the provisions of subsection (6), appoint a board consisting of three members of whom-

(a) one member, who shall be the chairman, shall be a legal practitioner or magistrate; and

(b) not less than two members shall be persons who are not public officers.

(6) The Minister shall not appoint a board unless and until the appellant deposits with the Minister such sum as the Minister considers will be sufficient to pay the costs, including the remuneration and allowances payable to the members of the board, likely to be incurred by the Government in connection with the appeal.

(7) The powers, rights and privileges of a board shall be the same as those conferred upon commissioners by the Inquiries Act, and the provisions of that Act shall, *mutatis mutandis*, apply in relation to the hearing and determination of an appeal by a board in terms of this section and to a person summoned to give evidence or giving evidence

before a board.

(8) The decision of a board shall be final.

(9) On the determination of an appeal the Minister shall refund to the appellant the sum deposited by the appellant in terms of subsection (6) less the amount of the costs, if any, payable by the appellant in terms of subsection (10).

(10) If an appeal is dismissed, a board may order the appellant to pay to the Government the costs incurred by the Government in connection with the appeal.

(11) Members of a board who are not public officers shall be paid out of moneys appropriated for the purpose by Parliament such remuneration as the Minister may prescribe.

(12) All members of a board shall be paid out of moneys appropriated for the purpose by Parliament such allowances to meet the reasonable expenses incurred by them in connection with an appeal as the Minister may prescribe.

(As amended by G.N. No. 90 of 1964)

26. (1) Subject to the provisions of this Act, the Minister may, out of moneys appropriated for the purpose by Parliament, pay compensation to the owner of a growing medium or plant destroyed under the powers conferred by this Act. Compensation

(2) Compensation payable in terms of subsection (1) shall, if the owner of the growing medium or plant so requires, be assessed by two persons of whom one shall be appointed by the Minister and the other by the owner.

(3) If the persons appointed as assessors in terms of subsection (2) fail to agree as to the amount of compensation to be paid to the owner of a growing medium or plant referred to in subsection (1), they shall choose an umpire whose decision shall be final.

(As amended by G.N. No. 90 of 1964)

27. No claim shall lie against the State or the Minister or an inspector, servant or agent of the State for anything done in good faith and without negligence under the powers conferred by this Act. Limitations of actions against the State

(As amended by G.N. No. 90 of 1964 and S.I. Nos. 57 and 176 of 1965)

28. (1) A person who-

Offences

(a) wilfully obstructs, impedes or hinders an inspector in the carrying out of his duties under this Act; or

(b) contravenes or fails to comply with a provision of this Act or the regulations, orders or notices made or issued in terms of this Act, or an order or direction made or given under the provisions of this Act or of regulations, orders or notices made in terms of this Act with which it is his duty to comply; or

(c) without reasonable cause contravenes or fails to comply with the condition or a permit or a licence issued in terms of this Act or of regulations, orders or notices made in terms of this Act; or

(d) maliciously introduces a pest on to land; or

(e) on being required to do so fails or refuses to produce to an inspector, police officer or other authorised person a permit, certificate or licence; or

(f) fails or refuses without reasonable cause to give information to an inspector or a police officer when required to do so in terms of this Act or gives false or incomplete information; or

(g) for the purpose of obtaining whether for himself or any other person the issue of a permit, certificate or licence, makes a declaration or statement which he knows to be false in any particular or does not know or believe to be true or knowingly makes use of a declaration, statement or document containing the same;

shall be guilty of an offence and liable-

(i) for a contravention of paragraph (d), to a fine not exceeding

twelve thousand penalty units or, in default of payment, to imprisonment for a period not exceeding four years, or to such imprisonment without the option of a fine, or to both;

(ii) for any other offence, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both.

(2) An inspector may seize and detain and the Minister may order the destruction without compensation of a growing medium, plant or other thing whatsoever which is removed from an infested or quarantine area in contravention of the provisions of this Act or an order made in terms of this Act.

(3) The confiscation or destruction of a growing medium, plant or other thing in terms of subsection (2) shall not free the person responsible for its illegal removal from liability to prosecution.

(As amended by G.N. No. 90 of 1964 and Act No. 13 of 1994)

29. (1) The Minister may by regulation, statutory order or statutory notice prescribe all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

General
regulatory
powers

(2) Without derogation from the generality of the provisions of subsection (1), the Minister may in regulations, orders or notices made or issued in terms of that subsection provide for-

(a) the form and manner in which applications for registration, permits, certificates and licences are to be made and the information to be supplied in connection therewith;

(b) the form of permits, certificates and licences, the conditions to be contained in permits, certificates and licences and the periods for which permits and licences shall remain in force;

(c) the persons by whom, the circumstances in which and the conditions subject to which permits, certificates and licences shall be issued;

(d) the circumstances in which and the conditions, including the payment of a fee, subject to which copies of permits, certificates and licences may be obtained;

(e) the cancellation, suspension and amendment of permits, certificates and licences and the surrender or delivery of permits, certificates and licences for those purposes.

30. In issuing a permit in terms of this Act, an issuer of permits may impose conditions which are not prescribed and in so doing may exclude or vary, as circumstances require, any prescribed condition. Conditions contained in permits

31. Has had its effect.

32. (1) Notwithstanding the repeal of the Plant Pests and Diseases Act, Chapter 100 of the 1957 Edition of the Laws, (hereinafter in this section referred to as "such legislation") a permit, special permit, licence, certificate or authority issued, application, approval or exemption made or given, examination, inspection, treatment or test taken or made, or other thing done under the provisions of such legislation which, immediately before the commencement of this Act was subsisting or was of force or effect or capable of acquiring force or effect, shall, subject to the terms and conditions on which it was issued or, as the case may be, the provisions of such legislation, continue to subsist or to be of force or effect, or as the case may be, acquire force or effect and shall be treated for the purposes of this Act as having been issued, made, given, taken or done under the corresponding provisions of this Act. Saving

(2) Any permit, special permit, licence, certificate or authority issued, order, application, approval or exemption made or given, examination, inspection, treatment or test taken or made or other thing done or commenced under this Act which immediately before the 31st January, 1964, was subsisting or was of, or was capable of acquiring, force or effect, shall continue to have or acquire force or effect, as the case may be, and shall on and after that date, be deemed to have been issued, made, given, taken or done under this Act as modified and adapted by Government Notice No. 90 of 1964.

(As amended by G.N. No. 90 of 1964)