

Phytosanitary Legislation

L-ARKIVJI NAZZIONALI TA' MALTA

1. Malta imports a considerable quantity of plants, both crop and ornamental, every year. Similarly, a significant amount of plant material is exported annually to overseas markets. This inflow and outflow must be carefully controlled for the following reasons:-

a) To ensure that plant pests and diseases of a dangerous nature, which so far are not present in Malta, are not introduced.

b) To ensure that plant material imported for local consumption or other use is reasonably free from pests and diseases. In this regard, attention must be paid both to deterioration in quality caused by such pest or disease, and to the increased danger to local crops of the same nature by the increase in the proportions or pest or disease in question (where this already exists in Malta?).

c) To ensure that all plants exported from Malta conform with the phytosanitary requirements of the importing country.

2. Legislative means are also required to enable prompt action to be taken in the case of accidental introduction, by natural causes or otherwise, of dangerous pests or diseases, for example Colorado Beetle. In this connection, the problem is that of controlling spread within the Maltese Islands, rather than that of preventing entry.

3. To date, Malta's phytosanitary law is Ordinance No 3 of 1876, which is 90 years old, and obsolete by modern international standards. Apart from this, its powers are severely limited, in view of its more restricted scope at the time of promulgation, and even when they are capable of being exercised, this is only possible by complicated means, which render both working and interpretation a rather difficult process.

4. The new Bill proposed for replacement of the existing law, is an all comprehensive one, set out on modern lines, and conforms in pattern with equivalent legislation abroad. Furthermore, it caters for every possibility arising within the field of Plant protection

insofar as control of the introduction and spread of plant pests and diseases are concerned. Under its powers, the health of plants, both crop and ornamental, in Malta, can be adequately safeguarded against added dangers from abroad.

5. Instead of the complex array of notices and counter-notices, the new scheme is simply set out in the form of a set of schedules. These can be brought up to date whenever demanded by circumstances, and the fact that only one set of schedules - the latest - will be in existence at one any time, will avoid all complications. The following criteria have been used when setting out the schedules proper:

a) Prohibition of importation of certain plants, or from certain countries, is the only possible method of preventing introduction of dangerous pests or diseases where the country of origin's state of infestation and other associated conditions render introduction into Malta inevitable in time, even with all possible precautions.

b) Imposition of special health conditions, when this is deemed sufficient in lieu of prohibition.

c) The normal requirement of a health certificate as a routine measure, when only "normal" pests and diseases are concerned.

6. It should be borne in mind that with the severely restricted resources available in Malta, control can be adequately exercised more by import and related restrictions and prohibitions than by pre-entry technical checks. It is emphasised that international health certificates attest, by their very nature, only substantial (not complete) freedom from pests and diseases, and the introduction into Malta of certain dangerous organisms in proportions well beneath the critical value employed in certification is bound to result in a build-up defying future eradication. Some countries, principally those with a vast amount of technical staff and other facilities, are in a position to prohibit less material outright, and achieve the same ends by comprehensive pre-entry examination, usually involving highly-qualified professional staff. Even here, however, in the vast majority of

instances, this is only for confirmation of the required conditions asked for, rather than an alternative. Countries already severely, infested with any particular pest or disease are naturally less concerned about that organism than they are about any others not yet recorded. This, of course, is the general line of thought that has been pursued in the present scheme in Malta.

10th September, 1966.

An Act to control the introduction and spread of Plant Pests and Diseases

PART 1.
PRELIMINARY

Short title and Commencement.

1. This Act may be cited as the Agriculture (Plant Protection) Act of 1963, and shall come into force at the expiration of two months beginning with the date of its enactment.

Interpretation

2. In this Act, and any regulations issued under its powers, unless the context otherwise requires:

"addition declaration" means any special condition required to be included in such portion of the Health Certificate as is set aside for such special conditions.

"captain" means any person in command of a vessel, including temporary command.

"consignment" means any quantity of plants, whether for commercial purposes or not.

"country" in relation to an association of states means each state included in the association, and in relation to an association of mainland and dependencies includes the latter.

"health certificate" means an official phytosanitary certificate drawn up as provided in the Annex to the international Plant Protection Convention (Rome, 1951 and signed by a person authorised by the Plant Protection service of the country of origin.

"inspector" means any official of the Department of Agriculture authorised by the Minister to inspect plants and other connected materials for the presence of pests and diseases, to give the relevant advice or instructions regarding disposal or treatment, and to sign phytosanitary certificates.

"Laboratory" means the Plant Protection Laboratory of the Department of Agriculture, or any other establishment, approved by the Minister, suitable for the carrying out of scientific work connected with plant pests and diseases, whether in Malta or abroad.

"Minister" means the Minister charged with responsibility for matters pertaining to Agriculture, or any other persons to whom the Minister has delegated all or any of his powers under the terms of this Act.

"packing materials" means any materials, other than the plants themselves, included in a consignment.

"Pests and Diseases" mean any animal or vegetable organism, including bacteria and viruses, which may directly or indirectly cause disease in, or otherwise harm plants.

"dangerous pest or disease" means any pest or disease of plant, whether already present in the Maltese Islands or not, which could cause severe or appreciable damage to plants.

"Plant" includes any part of a plant, and the fruit or seed thereof.

"Premises" mean any place where plants are grown or stored and includes households.

"vessel" means any form of sea or air conveyance.

PART II
IMPORT OF PLANTS

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Power to issue Schedules.

3. The Minister shall be empowered to issue a scheduled list of imported plants, together with their various countries of origin, and impose any prohibition, restriction or other condition on their import into the Maltese Islands, and to revise, alter or otherwise amend the schedules in question when and where he deems it necessary. Such Schedules to be published in the Government Gazette.

Prohibited imports

4. No person shall import any plant listed in the first schedule.

Imports subject to special conditions and permit

5. No person shall import any plant listed in the second schedule unless:

a) Such import has been approved in advance, in writing, by the Minister, and the quantity of the consignment does not exceed the quantity stated in the approval.

b) the consignment is accompanied by a Health Certificate containing the appropriate additional declaration as specified in the schedule.

Imports subject to Health Certificate

6. No person shall import any plant listed in the third schedule unless the consignment is accompanied by a Health Certificate.

Health Certificate.

7. a) The Health Certificate shall be attached to the Bill of Lading or to any other documents relating to the consignment.

b) The Health Certificate shall contain complete information. Any correction or deletion shall be marked by the person who signed the certificate.

c) The examination attested by the Health Certificates shall be carried out not earlier than 14 days prior to despatch of the consignment from the country of origin.

d) The country in which the plants in the consignment were grown shall be indicated

in the Health Certificate as the country of origin of those plants. If the plants were grown in more than one country, the country in which they were last grown shall be indicated as the country of origin, and if they were grown in that country for less than one season, the other countries shall also be indicated.

Freedom from soil and sand

8. Every consignment of imported plants shall be reasonably free from soil and sand.

Packing materials.

9. No person shall import plants in containers or packing materials other than the following:

- a) Unused containers
- b) Mosses, sawdust, shavings, woodwork, raw cellulose, ground cork, vermiculite, charcoal, peat, paper and cardboard, all free from pests and diseases.

Examination of plants

10. a) All plants imported into the Maltese Islands shall be examined upon importation by an Inspector.

b) The examination shall take place preferably at the Department of Agriculture's Inspection Shed, but can also take place at any other site considered suitable by the Inspector.

c) No plant or any other connected material under or subject to examination shall be moved or handled in any way, or any container opened, except in accordance with the directions of the inspector.

11. The Inspector may, if it appears to him that any plants examined under the provisions of Article 10, or the containers or packing materials thereof, are not free from pests and diseases, cause the owner to:

- a) Destroy, or otherwise dispose of, the whole or part of the plants, with or without the packing materials, or the latter alone.
- b) disinfect, or otherwise treat the said plants and packing materials.

Inspector's instructions after examination

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Both a) and b) above shall be carried out under the inspector's supervision.

Re-submission
for examination

12. Where only part of the consignment has been rejected, a further examination shall be carried out after the relevant sorting has been effected, this further examination to be considered as a separate examination for tariff purposes.

Re-Export

13. The inspector may permit the owner of a rejected consignment to return the said consignment abroad, but may, if it appears to him necessary or advisable, cause the owner to disinfect or otherwise treat such consignment before re-export.

Imports other
than in accordance
with
legislation

14. The owner of any plants imported into the Maltese Islands other than in accordance with the provisions of this Act, shall upon the directions of the inspector, either destroy the plants, together with the containers and packing materials, or return the consignment abroad.

Laboratory
examination

15. Where any consignment of plants is suspected of harbouring pests or diseases which by reason of their nature are difficult or impossible to detect upon examination under Article 10, the Minister may direct that representative samples of the plants in question be submitted to a Laboratory examination, on the result of which he may thereafter direct:

a) that the consignment be released.

b) that the consignment be disinfected or otherwise treated before release.

c) that the owner of the said plants destroy or otherwise dispose of the plants in question, the provision of Article 13 also applying.

Post-entry
Quarantine.

16. Whenever any consignment of plants awaits destruction, disposal, treatment, re-export, or the results of a Laboratory examination, the Minister may direct that the consignment in question be kept in an approved place under

Government supervision pending the necessary action, such period involved being termed Post-entry Quarantine.

b) During the Post-entry Quarantine period, plants will be deemed to be under examination for the purposes of this Act, and will be subject to the provisions of Article 10 (c)

Examination
and treatment
of vessels.

17. Whenever any vessel in harbour, airport, or any situation of equivalent significance is reasonably suspected of containing dangerous pests or diseases, the Minister may cause an inspection to be carried out on the vessel itself, and, should the vessel contain any **plant** material destined for import, forbid any unloading of material before such inspection has been carried out.

b) Should the inspection carried out confirm the presence of a dangerous pest or disease, the Minister may direct disinfection or any other treatment to be carried out on all or any part of the cargo, or the vessel itself, before unloading. Provided that b) above will not apply should the pest or disease in question be already established in the Maltese Islands.

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PART III
EXPORT OF PLANTS

Requirements
for pre-export
examination

18. Any plants submitted for pre-export examination shall be reasonably free from pests and disease.

Inspector's
instructions
after
examination.

19. An Inspector may, if it appears to him that any plants submitted for pre-export examination are not free from pests and diseases:

a) Reject the whole, or part of the consignment in question.

b) Cause the owner to remove any plants containing pests or diseases, and re-submit the consignment to a fresh examination after the required sorting has been completed.

c) Cause the owner to disinfect, or otherwise treat, the plants in question.

Re-submission
or rejected
plants.

20. No person shall submit for pre-export examination any consignment or part of a consignment of plants already examined and rejected, except in accordance with the provisions of Article 20 (b and c)

Marking of
containers

21. Whenever it appears to the inspector that any contravention of Article 21 is difficult or impossible to detect, he shall report to the Minister, who may direct him to:

a) Cause the owner to mark the containers of any rejected plants under supervision.

b) cause the owner to take the plants in question to the local market, under supervision.

c) take any reasonable steps, other than destruction of the consignment, to prevent such plants being re-submitted for examination.

Pre-examination
treatments.

22. The Minister may, if it appears to him that any plants intended for export might contain pests or diseases which by reason of their nature are impossible or difficult to detect upon examination under Article 18, direct that all or any such plants be disinfected or otherwise treated prior to examination.

Inspection
during growing
season and
harvest.

23. The Minister may, if he deems it necessary, cause additional inspections and examinations of any plants intended for export to be carried out in the field during the growing season and during harvest and packing.

24. Whenever the Minister imposes any treatment or inspections under the provisions of Articles 22 and 23, and makes such treatment or inspection a condition for the plants to be submitted for pre-export examination, he shall give due notice, either in the Government Gazette or by any equivalent measure, describing the details and conditions of such treatments or inspections, such notice to be published early enough to enable the necessary measures to be carried out.

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PART IV
SPREAD OF PESTS AND DISEASES

Spread within
Maltese Islands

25. If any dangerous pest or disease not previously known to exist in the Maltese Islands is discovered within one or more of the Maltese Islands, the Minister shall be empowered to issue regulations to prevent the spread of the pest or disease in question, and to carry out the measures necessary to eradicate it, such measures to include, wherever necessary, the destruction or any other treatment of any plants, and the prohibition or restriction of the cultivation of any plants. Similarly, should the introduction of any such dangerous pest or disease be deemed imminent through natural causes, the Minister shall likewise be empowered to issue regulations against its spread as a precaution, even before the recorded appearance of such pest or disease in the Maltese Islands.

Provided that wherever such regulation include actual destruction of plants, no such measure shall be taken before the pest or disease in question has been discovered in the Maltese Islands.

Eradication and
control of
established
pests.

26. The Minister may, with the object of eradicating any dangerous pest or disease already established in the Maltese Islands, or of controlling its spread, issue regulations for such eradication or control. These regulations to include all the measures in Article 25, except that the Minister may not order the destruction, or prohibition of cultivation, of any plant where the necessary eradication or control of the pest or disease in question can be obtained by disinfection or other treatment.

Specification
of pests and
diseases.

27. All regulations issued under the provisions of Articles 25 and 26 of this Act shall specify the pest or disease against which the necessary measures are being carried out. Such specification to include both scientific name and common or vernacular name.

Compensation.

28. When any standing plants, or the harvested crop thereof are destroyed in the enforcement of any regulations issued by virtue of the powers of articles 25 and 26 of this Act, the Minister shall effect fair compensation to the owner of such plants. Should the owner have any reasonable complaint as to the extent of such compensation, he shall have the right to appeal to the Minister, who shall set up an independent arbitration board to examine such complaint. The decision of such arbitration board shall be final.

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GENERAL PROVISION

Power of
Inspector to
enter premises

29. For the purposes of this Act, and any regulations issued under its powers, every inspector, and any other person generally or specially authorised in writing by or on behalf of the Minister, may at all reasonable hours enter any premises which contain or are reasonably suspected to contain any pest or disease of plants against which any provisions of this Act or its regulations are in force, for the purposes of examining such plants, and directing the owner to cause such measures to be carried out as prescribed by this Act or its regulations.

Hours of
Inspection
imported
and exported
plants.

30. All inspections and examinations of plants for import and export shall be carried out during Government Office Hours, unless the Minister decrees otherwise.

Provided that in the absence of any such decree by the Minister, an inspector shall carry out an examination outside Office hour if:

- a) such examination cannot be performed, for adequate reasons, during normal Office hours, and
- b) he is given notice in writing at least 24 hours beforehand.

Expenses in
connection
with carrying
out provisions
of this Act.

31. Any work outside Office hours performed by an Inspector, or any travelling expenses incurred by an Inspector when plants are examined outside the Official Inspection Shed, shall be borne by the owner of the plants in question. Similarly, any other expenses arising from the carrying out of the provisions of this Act and its regulations shall likewise be borne by the owner.

Government's
freedom from
liability.

32. No action or other legal proceedings shall be taken against the Government, or any Official of the Government in respect of any loss arising from the destruction, treatment or detention of plants, or their deterioration on account of such detention, for the purposes of carrying out the provisions of this Act and its regulations.

Schedule of Fees and Tariffs

33. The Minister shall be empowered to fix a schedule of fees and tariffs for examinations, post-entry quarantine, and treatments, and to revise, amend or otherwise alter the said schedule when and where he deems necessary. Such schedule to be published in the Government Gazette.

Provided that where any item of charge, incidental or otherwise, cannot by reason of its nature be included in the schedule, such charge shall be made at rates deemed fair and reasonable by the Minister.

Penalty for improper certificates

34. Any person who wilfully applies to, or submits with, any consignment of plants, any certificates, labels or other documents relating to any other consignment of plants, or who wilfully presents false information in any document relating to plant import or export, shall be deemed to have contravened the provisions of this Act.

Captain's liabilities.

35. When any plants are exported from, or imported into, the Maltese Islands except under the provisions of this Act, the captain of any vessel connected with such export or import, and any person rendering active assistance, shall be deemed equally responsible with the exporter or importer, and liable to the same penalties.

Provided that when any such export or import is carried out without the captain's knowledge, he shall on conviction, be only liable to a fine.

Resistance to Inspector.

36. No person shall hinder or resist any Inspector or any other Government Official in the lawful exercise of his duty under the provisions of this Act.

Failure to carry out Inspector's directions

37. Any person refusing to carry out any measure directed by the Inspector in the carrying out of any of the provisions of this Act shall have the measure in question performed by Government at his own (the owner's) expense, and shall also be deemed to have contravened the provisions of article 36 of this Act.

Penalties

38. Any person who contravenes any provision of this Act or its regulations shall on

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conviction be liable to:-

a) in the case of a first offence, a fine not exceeding £50, or a term of imprisonment not exceeding one month.

b) in the case of a second or subsequent offence, a fine not exceeding £100 or a term of imprisonment not exceeding three months.

Repeals.

39. The following are hereby repealed:

a) Ordinance No III of 1876, and all regulations and Government notices issued by virtue of its powers.

b) Government notice no. 44 of 1961 (The Lemon Trees (Restriction of importation) regulations, 1961).

c) Government notice no 86 of 1936

Repealment of all the above to take effect on the day this Act comes into force.