



ST HELENA

REVISED EDITION OF THE LAWS, 2017

ENVIRONMENT AND NATURAL RESOURCES

PLANTS PROTECTION ORDINANCE, 1938¹

Ordinance 8 of 1938

In force 2 November 1938

Amended by Ordinances 2 of 2001, 7 of 2003, 19 of 2011

Subsidiary legislation:

LILIES DISEASES ORDER, 1951

Legal Notice 1 of 1951

PLANTS (IMPORTATION) REGULATIONS, 2013

Legal Notice 33 of 2013

PLANTS PROTECTION ORDINANCE, 1938

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¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

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AN ORDINANCE for the protection of plants in St Helena.

Short title

1. This Ordinance may be cited as the Plants Protection Ordinance, 1938.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**Agricultural Authority**” means the person referred to in section 3;
“**Collector**” means the Collector of Customs and Excise appointed under the Customs and Excise Ordinance, 1999, and any customs officer appointed under that Ordinance acting under the directions of the Collector;
“**customs officer**” means a person appointed as such under section 4 of the Customs and Excise Ordinance, 1999;
“**exported**” means shipped from St Helena;
“**exporter**” includes the owner and the owner’s agents and servants;
“**goods**” means all kinds of movable property excluding animals;
“**imported**” means brought into St Helena by any means whatsoever;
“**importer**” includes the owner and the owner’s agents and servants;
“**notifiable plant disease**” means any plant disease declared to be a notifiable plant disease under this Ordinance;
“**packages**” means boxes, coverings, wrappers, soil or anything whatsoever in which plants are imported;
“**plant disease**” includes any condition conducive to the deterioration or destruction of any plant or part of a plant whether such deterioration be due to disease, insects or any other cause and whether communicable or not;
“**plants**” include any member of the vegetable kingdom or parts of them whether living or dead other than canned, candied or other preserved fruits or vegetables.

Agricultural Authority and delegation of powers

3. (1) For purposes of the administration of this Ordinance, the Agricultural Authority is the person appointed by the Governor as the Agricultural Authority under

section 2A of the Animals (Diseases) Ordinance, 1944.

(2) The functions of the Agricultural Authority may be performed by any other public officer authorised by the Agricultural Authority for the purpose and acting in accordance with any general or special directions the Agricultural Authority gives from time to time.

PART I IMPORTATION OF PLANTS

Powers of Governor in Council

4. The Governor in Council may make regulations—
- (a) prohibiting or controlling, either generally or from any country or place, the importation into St Helena of any plants or any packages in which they are packed or any other goods which in the opinion of the Governor in Council are likely to be a means of introducing any plant disease into St Helena;
 - (b) prescribing conditions, which may include fumigation or disinfection, subject to which any plants or packages in which they are packed or other goods may be admitted into St Helena;
 - (c) prescribing the fees payable in respect of the importation of plants;
 - (d) providing generally for the effective carrying out of the provisions and intentions of this Part .

Consequences of importing prohibited plants, etc

5. (1) If any plant, package or other goods are imported in contravention of any prohibition or condition imposed under this Ordinance -

- (a) the plant, package or goods must upon importation into St Helena immediately be seized by a customs officer; and
- (b) the importer commits an offence.

Penalty: A fine of £5,000, or imprisonment for 12 months, or to both.

(2) An officer who seizes any plant, package or other goods under subsection (1) must provide the person from whom it is so seized, or the person who to the officer's knowledge was the owner of the item at the time of the seizure, with a receipt containing at least the following information:

- (a) the name of the officer;
- (b) a description of the item seized; and
- (c) a notice of the person's rights under subsection (3).

(3) A person from whom any plant, package or other goods are seized under subsection (1) may, within 21 days of the date of seizure, apply to the Magistrates' Court for the item to be returned to the person and the court must, after enquiring into the matter—

- (a) order that the item be returned to that person, if the court is satisfied—
 - (i) that the item was not imported in contravention of any prohibition or condition imposed under this Ordinance; or
 - (ii) in the case of any item imported in contravention of a condition imposed under this Ordinance - that the importation of the item is not prohibited under this Ordinance and the person has provided proof that the item is free

from any plant disease and is not likely to be a means of introducing any plant disease into St Helena; or

(b) in any other case - order that the item be destroyed.

(4) If no application is made under subsection (3) within the prescribed period with respect to any plant, package or goods, the Collector must cause the item to be destroyed.

(5) For purposes of subsection (1), any plant, package or other goods coming from overseas is deemed to have come from a place the importation from which is prohibited under this Ordinance, and may be treated accordingly, unless the importer satisfies the Collector to the contrary.

Procedure in regard to plants, etc., the admission of which is conditional

6. (1) Despite anything to the contrary contained in the Customs and Excise Ordinance, 1999, all plants, packages and other goods the admission of which is subject to conditions prescribed by regulations made under section 4(b) must after customs clearance be delivered by the Collector to the Agricultural Authority who must within 48 hours examine the items and either -

- (a) permit entry of them after fumigation or disinfection; or
- (b) condemn and destroy them,

whichever course is, in the opinion of the Agricultural Authority, necessary.

(2) If the importer fails to remove any plant, package or other goods within 48 hours after receiving notice by the Agricultural Authority to remove it, the Agricultural Authority may order the destruction of the plant, package or goods.

Process of fumigation or disinfection

7. The process of fumigation or disinfection or both must (subject to any rules or regulations made by the Governor in Council) be carried out in a manner and under conditions the Agricultural Authority considers adequate for the destruction of any insect or vegetable pests which might possibly be present.

Expenses of removal, etc., to be recovered from importer

8. The expenses of removing plants and packages for examination, and the cost of fumigation and disinfection, together with any other expenses necessarily incurred by the Agricultural Authority in keeping the plants in good condition must be reimbursed by the importer.

Power of Agricultural Authority to inspect plants after delivery to importer

9. The Agricultural Authority may -

- (a) specify the conditions under which any imported plants may be planted out or otherwise disposed of;
- (b) direct the importer, who must comply with any such direction, to keep the Agricultural Authority informed as to the disposal of any plants after fumigation or disinfection; and

- (c) visit and examine such plants at any time if the Agricultural Authority considers it necessary to do so.

Imports for scientific purposes

10. Despite anything in this Ordinance to the contrary, the Governor may permit the import of any plant or other material that is certified by the Agricultural Authority to be required for scientific purposes.

PART II PREVENTION OF PLANT DISEASES

Powers of Governor in Council

11. The Governor **Council** may by order—
- (a) declare any area or parcel of land described in the order to be infected with plant disease or suspected of being infected with plant disease;
 - (b) prescribe and regulate the destruction or removal, uprooting, disposal or treatment of plants and products of a vegetable nature within an area or parcel of land declared by the same or any other order to be infected or suspected of being infected with plant disease;
 - (c) prescribe and regulate the cleansing and disinfecting of any area or parcel of land declared by the same or any other order to be infected or suspected of being infected with plant disease, together with any plants on the land;
 - (d) prescribe the period within which it is not lawful to plant or replant with any plant whatsoever or with any particular plant named in the order the whole or any portion of any area or parcel of land declared by the same or any other order to be infected or to be suspected of being infected with plant disease;
 - (e) regulate the duties of persons appointed to carry out the provisions of any orders issued under this Ordinance;
 - (f) declare any plant disease to be a notifiable plant disease;
 - (g) declare any plant disease to be an infectious plant disease;
 - (h) prescribe the measures to be taken for the treatment of any notifiable plant disease or any infectious plant disease by the owner, occupier or person having the charge or management of any land, whether or not the land has been declared to be infected or suspected of being infected with plant disease;
 - (i) declare any growing plant to be a noxious weed and prescribe measures for its control and destruction at the expense of the occupier of the land in which such plant is growing;
 - (j) generally make provision for the purpose of more effectively carrying out the provisions and objects of this Part.

Power of entry on lands

12. (1) The Agricultural Authority may with any assistance necessary -
- (a) enter upon any land, whether or not the land has been declared to be infected or suspected of being infected with plant disease;
 - (b) examine any plant, article or thing;
 - (c) after notifying the owner or occupier, dig up the ground and fell, lop, dig up and take away any suspected or infected plant, article or thing;

- (d) do anything else expedient to ascertain more effectually whether the land or any plant on it is infected with plant disease;
- (e) search for any plant disease; and
- (f) do any thing or act whatsoever in order to give effect to any order issued under this Ordinance.

(2) For the purposes of this section the Agricultural Authority and any person acting under his or her directions in writing may pass over any adjoining or intervening lands.

Notice by owner or occupier of existence of notifiable plant disease

13. (1) Every person who is an owner or occupier and every person having the charge or management of land who knows or suspects the existence of any notifiable plant disease on the land of which the person is owner or occupier or has the charge or management must -

- (a) with all practicable speed give notice in writing to the Agricultural Authority of the fact of the land or of any plant on it being so infected or suspected; and
- (b) in such notice give all information in the person's power as to the extent and nature of the disease.

(2) A person who is an occupier of or has the charge or management of land and who is charged with any act done in contravention of this section is presumed to have known of the existence of the disease, unless and until the person shows to the satisfaction of the court that the person had no knowledge of the disease, and could not with reasonable diligence have obtained that knowledge.

Power of Agricultural Authority to carry out measures prescribed by orders

14. If a person who is the owner or occupier of or has the charge or management of any land fails to carry out any measures required to be carried out by the person under any order issued under this Ordinance -

- (a) the Agricultural Authority, or any person authorised by him or her in writing, may enter on the land and carry out any measures required to be carried out under the order; and
- (b) the cost of carrying out any such measures is recoverable from that person at the suit of the Agricultural Authority, or any person authorised by him or her in writing, as a civil debt.

Decision of Agricultural Authority

15. The decision of the Agricultural Authority as to the presence or identification of any notifiable plant disease or infectious plant disease is sufficient authority for carrying out the purposes of this Ordinance.

PART III EXPORTATION OF PLANTS

Powers of Governor in Council

16. The Governor in Council may make regulations —

- (a) providing for the inspection in fields and at prescribed places or packing centres of any plants by the Agricultural Authority before they may be exported;
- (b) prescribing the periods of the year within which any plants may not be exported;
- (c) prescribing kinds of packages in which any plants must be exported;
- (d) prohibiting the export of any plants unless they attain a prescribed standard of quality, or are in a proper condition for export;
- (e) prescribing standards of grading subject to which any plants to be exported must be packed;
- (f) providing for the disinfection or fumigation of any plants before they may be exported;
- (g) regulating the form and issue of certificates by the Agricultural Authority;
- (h) prescribing fees for the examination of plants and for the issue of certificates;
- (i) prohibiting the export of any plants or the products of any plants which have been processed unless certified by the Agricultural Authority to be free from plant disease;
- (j) prescribing the period of notice to be given to the Agricultural Authority by the exporter of an intention to export any plants;
- (k) providing generally for the effective carrying out of the provisions and intentions of this Part of this Ordinance.

Process of fumigation or disinfection

17. The process of fumigation or disinfection or both must (subject to any rules or regulations made by the Governor in Council) be carried out in a manner and under conditions the Agricultural Authority considers adequate for the destruction of any insect or vegetable pests which might possibly be present.

Expenses of removal, etc. to be recovered from exporter

18. The expenses of removing plants for examination and the cost of fumigation and disinfection, together with any other expenses necessarily incurred by the Agricultural Authority in keeping the plants in good condition must be reimbursed by the exporter.

PART IV OFFENCES

Offences

19. (1) It is an offence for a person, without lawful authority or excuse, (the burden of proving which is on the person) to—

- (a) do anything in contravention of this Ordinance or of any regulations or order made under sections 4, 11 or 16;
- (aa) disregard directions given under section 9;
- (b) fail to give any notice which by this Ordinance the person is required to give;
- (c) refuse to any person acting in execution of this Ordinance or of any order issued under it admission to any land or place which that person is entitled to enter or examine;
- (d) obstruct or impede any person acting in execution of this Ordinance person in so entering or examining; or
- (e) otherwise in any respect obstruct or impede any person in the execution of a duty

under this Ordinance or assists in such obstructing or impeding.
Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(2) *Omitted*

PLANTS PROTECTION ORDINANCE, 1938

LILIES DISEASES ORDER, 1951

(Section 11)

Citation

1. This Order may be cited as the Lilies Diseases Order, 1951.

Notifiable and infectious diseases

2. The following diseases of lilies are declared to be notifiable plant diseases and infectious plant diseases—

Mosaic Disease—Virus Disease

Rosette Disease—Virus Disease

Lily Leaf Spot—*Botrytis elliptica*

Eel Worm Disease.

Destruction of diseased plants

3. In the case of any lily or other plant infected with a notifiable plant disease or an infectious plant disease, the Director of Agriculture and Natural Resources may order that it be -

(a) destroyed by uprooting and burning; or

(b) sprayed or dusted or otherwise treated with a suitable insecticide.

Duty of owner of diseased plant

4. (1) The owner of the plant must carry out the order within 3 days from the giving of the order. which may be given either verbally or in writing.

(2) In case of non-compliance the Director of Agriculture and Natural Resources may act in accordance with section 14 of the Ordinance.

PLANTS PROTECTION ORDINANCE, 1938

PLANTS (IMPORTATION) REGULATIONS, 2013

(Section 4)

Citation

1. These Regulations may be cited as the Plants (Importation) Regulations, 2013.

Prohibited plants

2. The importation of any plant listed in Schedule 1 is prohibited.

Restrictions on importation of plants

3. (1) Subject to regulation 2, no person may import any plant, earth or soil except—

- (a) under a licence previously granted by the Agricultural Authority, having regard to the conditions and requirements contained in the Health Standards prescribed by the Committee in respect of the importation of plant material; and
- (b) upon production of a certificate given by a competent authority in the country from which the plant was exported certifying that the plant has been examined and is free from plant disease.

(2) An application for a licence must be made in a form approved by the Agricultural Authority and is subject to the payment of the fees prescribed in Schedule 2.

(3) For purposes of paragraph (1)(b), “**competent authority**” means any authority or person in the country from which the plant was exported which is recognised by the Agricultural Authority as competent to give such a certificate.

Repeal of legislation

4. *Omitted*

SCHEDULE 1 (Regulation 2)

PROHIBITED PLANTS

<u>Plant</u>	<u>Country of Origin</u>
Sunflower seeds	South America

SCHEDULE 2 (Regulation 3)

FEEES

Application for importation licence	£5.00
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