

LEGAL NOTICE NO:

THE PLANT PROTECTION ACT
(Cap. 324)

**THE PLANT PROTECTION (IMPORTATION OF PLANTS,
PLANT PRODUCTS AND REGULATED ARTICLES) RULES,
2009**

IN EXERCISE of the powers conferred by Section 3 of the Plant Protection Act, the Minister for Agriculture makes the following Rules

Citation.

1. These Rules may be cited as the Plant Protection (Importation of Plants, Plant Products and Regulated Articles) Regulations, 2009.

Interpretations

2. In these Rules, unless the context otherwise requires

"Authorized Officer" means the Managing Director of the Kenya Plant Health Inspectorate Service which is also the National Plant Protection Organization;

"consignment" means a quantity of plants, plant products and or regulated articles being moved from one country to another and covered by a single phytosanitary certificate and such consignment may be composed of one or more lots;

"conveyance" means any vessel, aircraft, train, vehicle, cart, container, animal or any other thing that can convey plants, plant products, pest, soil or other regulated articles from one place to another;

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

"importation" means bringing into Kenya of plant, plant product and or regulated article however acquired and for whatever purposes and "import" shall be construed accordingly;

"interception" means the refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary rules;

"National Plant Protection Organization" means the Kenya Plant Health Inspectorate Service established under;

"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 certificate" means the official document which attests

to the phytosanitary status of any consignment affected by phytosanitary rules;

"phytosanitary measure" means any legislation, Regulation or official procedure having the purpose to prevent the introduction or spread of pests;

"plant product" means any unmanufactured material of plant origin including grain and those manufactured products that, by their nature or that their processing, may create a risk of the introduction and spread of pests;

"plant quarantine procedures" means procedures followed for importation of risk-associated materials that require quarantine;

"point of entry" means an airport, sea port or land border point officially designated for the importation of consignments, or entrance of passengers;

"provisional quarantine area" means an area within which a quarantine pest is present and is being officially controlled on a temporary basis and may include but not be limited to private farms and institutions;

"quarantine station" means an official station for holding plants, plant products or regulated articles under quarantine.

"quarantine pest" means a pest of potential economic importance to the area endangered and not yet present there, or present but not widely distributed and being officially controlled;

"phytosanitary certificate for re-export" means the official document which attests to the phytosanitary status of a consignment for re-export;

"regulated article" means any packaging, conveyance, container, soil and other organism, object or material capable of harbouring or spreading pest, deemed to require phytosanitary measures, particularly where international transportation is involved;

"standard operating procedures" means documented steps and sequences established and amended from time to time by the National Plant Protection Organization spelling out the methods for enforcing plant health measures;

"treatment" means an officially authorized procedure for the killing, removal or rendering of pests inactive or infertile;

"risk" means possibility of undesirable phytosanitary situation.

Importation to conform to Rules.

3. A person shall not import plant, plant product or regulated article except in the manner provided for under these Rules.

Information on import requirements points of entry

4. (1) The National Plant Protection Organization shall from time to time provide information
(a) for purposes of application; and
(b) on designate official points of entry,
for the importation of plant, plant product or regulated article.

(2) The information shall be availed in a manner and form that ensures access and use by intending applicants.

Import permits and
Phytosanitary
Certificates

5. (1) A person shall not import plant, plant product and regulated article unless

(a) he has obtained an import permit granted by the National Plant Protection Organization; or

(b) he has an original Phytosanitary Certificate issued by National Plant Protection Organization of the exporting country.

(2) Notwithstanding subsection (1), the National Plant Protection Organization may exempt a plant, plant product or regulated article from the requirements of obtaining an import permit or phytosanitary certificate upon written approval by the Authorized Officer.

(3) An application for an import permit under (1) (a) shall be made to the National Plant Protection Organization at a prescribed fee.

Declaration of
arrival of plants,
plant products etc.
to a plant inspector.

6. (1) An importer shall report the arrival of any consignment of plant, plant product or regulated article and shall apply for phytosanitary inspection to a plant inspector in charge of the point of entry.

(2) Any person arriving in Kenya with plant, plant product or regulated article whether as accompanied or checked-in baggage, shall declare such items to a plant inspector at the point of entry.

(3) A person in charge of Customs Department, the Kenya Ports Authority, the Post Office, all airlines operating in Kenya, the Kenya Airports Authority, the Kenya Railways, the Kenya Police, the Kenya Navy, all Shipping lines operating in Kenya and all local authorities who has knowledge of the arrival of any plant, plant product or regulated article in Kenya, shall promptly report such arrival to an inspector, and shall retain custody of the plant, plant product or regulated article, until a plant inspector approves its release.

Inspection and
inspection hours.

7. (1) A plant inspector shall inspect plant, plant product, or regulated article at the point of entry and shall verify the documentation to ensure that the consignment complies with the import phytosanitary requirements.

(2) Upon application by the importer and payment of the prescribed fees, and where the container has been sealed and labeled, the National Plant Protection Organization may require an inspection to be carried out by a plant inspector at the final destination.

(3) Inspections under paragraph (1) and (2) shall be carried out during regular business hours, except upon the request of the importer and upon payment of the prescribed fee, inspections may be carried out at any other time.

Laboratory tests

8. Based on the import requirements and the nature of the imported

and follow up inspections.

material, an inspector shall inspect the consignment and may

- (a) take samples for laboratory tests; and
- (b) undertake follow up inspection during active growth stages.

Import clearance.

9. No consignment of plants, plant products or regulated articles imported shall be released unless

- (a) an importer has presented to a plant inspector all permits, certificates and any other documentation;
- (b) the plant, plant product or regulated article is, or has been presented to and released by a plant inspector in accordance with these Rules.

Notification interceptions.

of

10. (1) If a consignment does not meet all the phytosanitary requirements, that consignment shall be intercepted and the National Plant Protection Organization shall notify the consignee and the exporting country's National Plant Protection Organization in writing.

(2) Intercepted consignment shall be seized, detained, treated, disposed or destroyed in accordance with [L. N.165 of 1964](#).

(3) Any plant inspector who causes consignment or items of plant, plant product or regulated article to be so seized, detained, treated, disposed of or destroyed shall, as soon as practicable, notify in writing the consignee through an interception notice.

Pest Risk analysis and information.

11. (1) Where risks associated with importation of a plant, plant product or regulated article are unknown, the National Plant Protection Organization shall undertake a pest risk analysis prior to allowing importation.

(2) The National Plant Protection Organization shall request for Pest Risk Analysis information from the National Plant Protection Organization of the exporting country.

(3) It shall be the responsibility of the National Plant Protection Organization of the exporting country to provide the pest risk analysis information.

Import procedures and quarantines.

12. (1) Upon conducting a Pest Risk Analysis, where risks associated with importation of a plant, plant product or regulated article are

- (a) minimal, the National Plant Protection Organization may grant importation permit;
- (b) substantially high, the National Plant Protection Organization may grant permit for importation under plant quarantine procedures;
- (c) very high, the National Plant Protection Organization will prohibit importation except for the purpose of restricted essential,

- (i) scientific research; and
- (ii) experiment or education:

provided that such importation shall not present significant risks to agriculture or natural environment of Kenya and shall be subjected to the quarantine procedures specified in (b).

(2) For the purposes of undertaking quarantine procedures the National Plant Protection Organization may, using its Standard Operating Procedures designate any

- (i) of its substations as a quarantine station; or
- (ii) specific area or facility as a provisional quarantine.

(3) Where a provisional quarantine facility has been designated within the property of the importer for the plant, plant product or regulated article, the property owner shall ensure that such product is not taken from the quarantine facility without approval of National Plant Protection Organization.

(4) The National Plant Protection Organization shall regularly review the situation of any quarantine area or facility and as soon as either

- (a) the relevant quarantine pest is eradicated; or
- (b) it is of the opinion that it is no longer appropriate for the quarantine to be maintained in respect of some or all of the affected area,

the National Plant Protection Organization shall, by written notice served on all affected owners or occupiers of any area or premises, lift the quarantine.

Consignment for re-export

13. (1) If a consignment imported for re-export is repacked or split up, but its Phytosanitary integrity is not lost, the National Plant Protection Organization shall issue a Phytosanitary Certificate for re-export.

(2) Where a consignment imported for re-export loses its integrity, is processed or otherwise exposed to infection or infestation by a pest, it shall be considered a consignment to be exported from Kenya.

(3) Re-export consignments shall be accompanied by their original phytosanitary certificates or a certified copy in addition to the re-export phytosanitary certificate.

Consignment in transit.

14. (1) where consignment is not imported, but is in transit through Kenya without being exposed to infestation or contamination by pest, a phytosanitary certificate or are-export Phytosanitary Certificate shall not be required.

(2) If however, the transit consignment is to be handled in a manner that it loses its integrity or it is otherwise exposed to infection or infestation by pest, it shall be considered a consignment to be exported and Phytosanitary certificate issued.

Importation
seeds. Cap.
326

of

15. Any person importing seed shall, in addition to these Rules, comply with the requirements of the Seed and Plant Varieties Act.

Authorities to assist
and co-operate in
minimizing threats
from risks.

16. The Customs Department, the Kenya Ports Authority, the Kenya Airport Authority, all airlines operating in Kenya, the Post Office, the Kenya Railways, the Kenya Police, the Kenya Navy, all Shipping lines operating in Kenya and all local authorities shall assist plant inspectors in

(a) ensuring that no threat to the plant resources of Kenya is caused, where waste is being disposed of from

(i) aircraft, ships, vehicles, rail and pleasure craft arriving in Kenya,

(ii) premises which process or wash imported plants, plant products, or regulated articles;

(b) the performance of their function and exercise of their powers under these Rules by providing such facilities and assistance as the National Plant Protection Organization may require to implement these Rules.

Offences
penalties.

and

17. (1) Any person who contravenes any of the provision of these Rules shall be guilty of an offence and shall be liable to a fine of two thousand shillings or imprisonment for a term not exceeding six months or both.

(2) Plants, plant products and regulated articles found to be in contravention to these Rules shall be intercepted and either destroyed or sent back to sender or origin, or treated and released by the National Plant Protection Organization at the cost of the importer.