

CHAPTER 133

THE PLANT PROTECTION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 133

THE PLANT PROTECTION ACT

An Act to make provisions for consolidation of the Plant Protection Act, to prevent the introduction and spread of harmful organisms, to ensure sustainable plant and environmental protection, to control the importation and use of plant protection substances, to regulate export and imports of plants and plant products and to ensure the fulfilment of international commitments, to entrust all plant protection regulatory functions to the Government, and for related matters incidental thereto or connected therewith.

[1st July, 2001]

[G.N. 122 of 2001]

Act No. 13 of 1997

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh133s1]1. Short title

This Act may be cited as the Plant Protection Act.

[PCh133s2]2. Interpretation

In this Act, unless the context requires otherwise—

"analyst" means any person appointed as analyst under section 32 of this Act;

"animal organism" means any animal organism regardless of the stage of existence the organism is in;

"beneficial organism" means any organism including fungi, bacteria, viruses, virus like organisms, vertebrate or invertebrate animals, utilised specifically for the control of harmful organisms, pollination, production of commercially valuable products, or for other purposes beneficial to agricultural production;

"conveyance" means any vessel, aircraft, train, truck, car, cart, cargo container, animal or other device whereby goods, soil or other things may be moved from one place to another;

"disease" means any abnormal condition on a plant, communicable or believed to be communicable by the transfer of a causative agent or by the propagation of the affected plant which the Minister may by Order in the Gazette, declare to be a disease for the purposes of this Act.

"harmful organism" mean an animal, plant or micro-organism, in whatever state of development, which is injurious to plant or plant products and which the Minister may declare, by order, published in the Gazette to be a harmful organism. Viruses and similar

pathogens shall be treated as equivalent to micro-organisms and diseases not caused by harmful organisms shall be treated as equivalent to harmful organisms;

"infected area" means any area or place in which a harmful organism or disease exist and which has been declared by the Minister, by order published in the Gazette, to be an infected area for the purposes of this Act and the term "infested area" shall be construed accordingly;

"infested" means harbouring or containment by a harmful organism and the term "infected" shall be construed accordingly;

"inspector" means any inspector appointed under section 33 and 34 of this Act;

"inspector-in-charge" means an inspector appointed by the Minister and assigned as an officer-in-charge at a quarantine station or post entry quarantine station or at any other place as the Minister deems necessary;

"integrated pest management" means one or a combination of plant protection methods in which particular attention is paid to biological, bio-technological, plant breeding and other organic related measures, while limiting the use of chemical plant protection substances to the necessary minimum;

"international phytosanitary certificate" means a phytosanitary certificate substantially in the form of the Model Phytosanitary Certificate annexed to the International Plant Protection Convention of 1951 as amended in 1979, and issued by or under the authority of a technically qualified and duly authorised officer and the term "certification" shall be construed accordingly;

"Minister" means the Minister for the time being responsible for agriculture;

"natural environment" shall include its components - soil, water, air, species or wild flora and wild fauna, as well as interaction between them;

"outbreak pests" means harmful organisms to plants occurring in large numbers over large tracts of land, and in such magnitude that an individual or group of individual owners or occupiers, can not control or contain, or whose distribution is restricted in an area from where their spread can be contained or delayed, and whose delayed control due to the use of normal procedures or means can cause danger to the health of plants, man, animal and the natural balance, and, which the Minister may declare under section 6 of this Act, to be outbreak pests;

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

"packaging" means any means by which plants or plant products, harmful organisms, beneficial organisms, goods or soil may be enclosed, covered, contained, supported or packed;

"pest" means any form of plant or non-domesticated animal life or any pathogenic agent other than a beneficial organism or any other agent which can be injurious to plant or plant material or to beneficial organisms, and includes any weed;

"plant" means any member of the vegetable kingdom and includes any part of the plant whether severed from the plant or not;

"plant material" means products of plant or plant product which can be affected by, or can harbour, a pest;

"plant products" means products of plant origin which have not been treated or processed using simple methods such as drying or crushing, and, parts or plants, including fruits and seeds which are not intended for cultivation;

"plant protection equipment" means equipment and devices used or intended to be used for applying plant protection substances;

"plant protection substances" shall be substances which are intended to—

- (a) protect plants against harmful organisms;
- (b) protect plants against non-parasitic impairments;
- (c) protect plants or plant products against animals, plant, or micro-organisms which are not harmful organisms;
- (d) influence the vital processes of plants without serving nutritive purposes;
- (e) inhibit the germination of plant products;
- (f) be added to the substances set out in subparagraphs (a) to (e) for the purposes of changing their properties or effects:

Provided that, plant protection substances shall also be deemed to include those substances which are intended to kill plants or to clear areas of plant growth or to keep such areas clear of such growth and which do not come within the purview of subparagraphs (b) or (f) above, but shall not include water and fertilizers within the meaning of the Agricultural Inputs Acts;

"plant resistance improver" means substances or material used to enhance the resistance or tolerance of plants against harmful organisms;

"point of entry" means any seaport, airport, river or lake station, railway station, post office, transport terminal or border post, through which goods may enter Tanzania and which the Minister may declare to be a point of entry under section 14 of this Act;

"post entry quarantine station" means a secured place for the holding of plants, plant products or beneficial organisms for observation, inspection, treatment, or research after having been imported into Tanzania;

"prescribed" means prescribed by regulations made under this Act;

"propagative material" means any living plant or part of the plant (including seed, corn, cutting, but or rhizome) used or intended for propagation;

"quarantine" means the official confinement of plants and plant products, harmful organisms to plant, beneficial organisms, goods or soil being imported into or exported from, Tanzania, subject to phytosanitary regulations, for observation and research or for further inspection and/or testing;

"quarantine station" means a place for the inspection, detention, treatment, reconsignment or destruction of plants or plant products, harmful organisms to plants, beneficial organisms, goods or soil being imported into or exported from, Tanzania;

"register" means the register of plant protection substances, plant resistance improver and equipment maintained under section 16(e) of this Act and the terms "registrar" and "registration" shall be construed accordingly;

"research institute" means an institute of a national standard to which the Minister may delegate his powers pursuant to section 32 of this Act;

"soil" means any medium (including earth, water, composite or clay) which is capable of supporting plant life, or harbouring or transmitting harmful organisms to plants;

"treatment" means any appropriate process (including the use of plant protection substances heat or low temperature) for ensuring the removal, sterilisation, or killing of harmful organisms to plants;

"use before date" means the date, in the case of plant protection substances, plant resistance improver or equipment having limited keeping properties, after which the substance or equipment shall no longer be used;

"weed" means any plant potentially injurious to agriculture which is declared by the Minister, by notice published in the Gazette, to be a weed for purposes of this Act.

PART II

PLANT PROTECTION (ss 3-15)

[PCh133s3]3. Reporting on and destruction of infectious articles

The Minister may make rules for the purposes of preventing and controlling attacks by or the spread of harmful organisms or diseases in Tanzania and, in particular and without prejudice to the generality of the power under this section, on all or any of the following matters—

(a) to order the reporting to the competent authority of any occurrence or suspected occurrence of specific harmful organisms, any cultivation or presence of determinate plant species, any other pertinent facts concerning the occurrence or control of harmful organisms, or the use of specified plant protection substances, plant protection equipment or plant protection processes;

(b) to require any holder of a right of disposal and any owner to monitor or investigate affected objects, land, buildings or premises for the occurrence of harmful organisms to plants or plant products or to cause such investigations to be made;

(c) to require any holder of a right of disposal and any owner to combat specified harmful organisms or to cause them to be combatted, as well as to prescribe or prohibit the use of specified plant protection substances, plant protection equipment or processes for this purpose;

(d) to order competent authorities or monitor plants and land for the occurrence of specified harmful organisms;

(e) to order the destruction and or, disinfection of affected objects and the disinfection of soil, culture substrate, buildings or premises, as well as to prescribe or prohibit the use of specified means, equipment or processes for this purpose;

(f) to prescribe or prohibit the use of specific culture substance for the breeding or cultivation of specified for this purpose;

(g) to prohibit or limit the use of land affected, suspected of being affected or in danger of being affected and to issue rules concerning prohibition of entry upon such land;

(h) to prohibit or limit the cultivation of specific plant species;

(i) with regard to the marketing of specific plants or plant products which are intended for planting, propagation or grafting—

(i) to prohibit or limit such marketing if the material is infested or suspected of being infested with specific harmful organisms;

(ii) to make such marketing contingent upon the results of an examination of the material to determine any infestation with or resistance to, specify harmful organisms; or to make such marketing subject to the obtaining of a prescribed permit;

(j) to order that land affected, suspected of being affected or in danger of being affected be cleared of specific plants or be maintained clear of such plants;

(k) to prohibit or limit the transporting and marketing of specified harmful organisms and effected objects, or to make such transporting and marketing subject to the obtaining of a prescribed permit or notification requirements;

(l) to prohibit or limit the breeding and keeping of specified harmful organisms and any operation entailing the use of the specified harmful organisms, or to make such breeding, keeping or operations subject to the obtaining of prescribed permit or to notification requirements;

(m) to order disinfection, and or cleaning of land, buildings, premises, containers or any conveyance used for the storage of plants or plant products and to prescribe or prohibit the use of specific means, equipment or processes for that purpose;

(n) to issue rules for the protection of animals, plants or micro-organisms and the natural environment against dangers arising from the use of plant protection substances in view of plant protection substances usefulness in combatting harmful o r g a n i s m s ;

(o) to issue rules concerning the use of animals, plants or micro-organisms for combatting specified harmful organisms;

(p) measures to be taken, including provisions for the requisitioning upon payment, of plant protection substances, labour, and other means, to secure the control or containment of outbreak pests;

(q) to issue rules concerning the use or sowing of species or cultivate resistant or tolerant to harmful organisms.

[PCh133s4]4. Duties of occupiers of land

(1) Every occupier or, in the absence of the occupier, every owner of land, shall take all such measures as may be required by any rules made under section 3, and in addition, such other measures as are reasonably necessary for the eradication, reduction or prevention of the spread of any harmful organisms to plants or disease which an inspector may by notice in writing order occupier or owner to take, including the destruction of plants or plant products, whether infected with harmful organisms or reasonably suspected to be so.

(2) Notwithstanding the provisions of this section, no order for the destruction shall be made by an inspector under this subsection, without the approval in writing of the inspector-in-charge appointed by the Minister.

(3) In the case of two or more joint occupiers or joint owners, each of them shall be deemed to be an occupier or owner for the purposes of this section.

(4) Where any such occupier or owner fails to take any of the measures which he is required to take under subsection (1) of this section, the inspector may, on giving notice

of not less than seven days in writing of the intention to do so, cause such measures to be taken and, the occupier or owner shall, without prejudice to any penalty which he has incurred through such failure, be liable to pay all the costs of such undertaking, and the cost shall be recoverable as a debt due to the Government of the United Republic of Tanzania.

[PCh133s5]5. Right of entry and destruction of infectious articles

(1) Subject to any rules made under section 3 of this Act, any inspector may enter any land or buildings other than a dwelling house at all reasonable hours for the purpose of discovering harmful organisms or diseases in any plant or plant products and, of ascertaining that any order of an inspector or any rule under section 3, has been complied with and, of causing measures to be taken under the provisions of subsection (3) of section 4 of this Act.

(2) Before entering upon any land or building under subsection (1) of this section, such inspector shall make reasonable efforts to inform the owner or occupier.

[PCh133s6]6. Contingency measures for the containment of outbreak of pests

Where there is sufficient evidence and the Minister is satisfied that the agricultural crops in any part of Tanzania are in danger of damage by outbreak pests, he may, by order published in the Gazette, declare that in such area or areas as he shall specify, a state of danger to agricultural crops by specified outbreak pests exists and upon such declaration, and for so long as any such order remains in force, all regulations made under section 7, except such as may be expressly exempted by any such order, shall apply to such area or areas.

[PCh133s7]7. Power to make special regulations

(1) The Minister may make regulations for all or any of the following purposes–

(a) empowering officers of the Government, specified therein to require any person to afford such reasonable assistance for the destruction of outbreak pests as such officers may consider necessary, and to take possession of and use for the purpose of the destruction of outbreak pests, any beasts of burden and any machinery, implements, which such officers may require for that purpose;

(b) empowering officers of the Government, specified in the regulations to require an occupier or owner of land to do specified work necessary for the destruction of outbreak pests upon such land within times specified by such officer and in default of such work being done to enter upon such lands with such assistants as they may require and to do such work, and to recover on behalf of the Government from the person in default all expenses incurred;

(c) requiring persons observing outbreak pests in whatever stage of their development to report the fact to some persons specified;

(d) requiring owners or occupiers of land to destroy outbreak pests which may be discovered;

(e) empowering Government officers to monitor and give professional advice to the occupiers or owners of land on control and containment of outbreak pests;

(f) prescribing penalties for the contravention of any such regulations, or any directions issued or requisitions made under the regulation, not exceeding a fine of ten

million shillings (10,000,000/=) or imprisonment not exceeding three years or both such fine and imprisonment;

(g) provide for the payment of compensation for damages occasioned to any animals, machinery, implements, or vehicles requisitioned under the regulation.

(2) Notwithstanding the provisions of subsection (1) of this section no compensation shall be payable in respect of damage occasioned to soil or to agricultural crops by any measures lawfully taken for the destruction of outbreak pests under this Act.

[PCh133s8]8. National quarantine measures, plant import and export control

(1) No plant or plant products, harmful organism, beneficial organism, or soil, may be imported into Tanzania, except—

- (a) to the extent, if any, the importation is provided for by this Act; and
- (b) in accordance with terms and conditions of a prescribed permit issued under this Act; and
- (c) through a point of entry declared under section 14 of this Act.

(2) Any plant or plant product, harmful organism, beneficial organism, or soil imported into Tanzania, shall be clearly identified, declared to an inspector and be made available for an inspection or any subsequent action provided by this Act.

(3) Unless exempted under subsection (6), no plant (including the living culture of any fungus, bacterium, or any other micro-organisms), plant products, beneficial organisms or any other material or substance provided under this Act may be imported into Tanzania without a prescribed permit.

(4) Unless exempted under subsection (6), no plant or plant products may be imported into Tanzania without an international phytosanitary certificate stating that it is free from any harmful organisms, and that it complies with the quarantine requirements of Tanzania.

(5) Except as provided for in subsection (6), no harmful organism, soil, weed or prescribed plant or plant products may be imported into Tanzania.

(6) The Minister may, from time to time, by notice published in the Gazette, exempt from the requirements of subsections (3) and (4) of this section any specified plant or plant products or kind of plant or plant product, provided that he is satisfied that its importation would not present a significant threat to the agriculture or natural environment of Tanzania.

(7) A person who holds a prescribed permit which is issued under this section, shall only be authorised to import the item or items and upon conditions and period, stated in the prescribed permit.

(8) Any plant or plant products, culture or beneficial organism imported under a prescribed permit issued under this section shall be held, grown and maintained in strict compliance with the conditions stated in the prescribed permit, and shall be made available to the inspector for inspection by that inspector, at all reasonable times and upon request by that inspector.

[PCh133s9]9. Importation for research purposes

(1) Notwithstanding any provision in this Act, but subject to subsections (2) and (3), of this section, the Minister may, for the purposes of essential scientific research or

experiment, permit the importation into Tanzania, of anything not otherwise eligible for importation under this Act.

(2) The Minister shall not permit anything to be imported under subsection (1) above unless he is satisfied that its importation will not present significant threat to the agriculture or natural environment of Tanzania.

(3) An importation under this section shall be permitted subject to such safeguards and other terms and conditions as the Minister think fit.

[PCh133s10]10. Conveyance

(1) Any conveyance and its contents shall, immediately upon its arrival in Tanzania, be made available for inspection, examination and treatment in accordance with this Act, and no person shall enter the conveyance or remove anything from it without the approval of an inspector and until such inspection, examination and treatment has been completed.

(2) Any plant or plant products or other things the subject of this Act arriving in Tanzania in or on a conveyance but not being imported into Tanzania shall, be brought to the attention of an inspector, be made available for inspection and shall be confined or otherwise dealt with as the inspector directs until the conveyance is outside the jurisdiction of Tanzania.

(3) If a conveyance is—

(a) found to have plant or plant products or other things the subject of this Act in, on or adhering to it;

(b) found, or reasonably believed by an inspector to be infested by harmful organisms,

it shall be subject to such treatment as an inspector may direct, and the conveyance shall not be released until such treatment has been completed to the satisfaction of the inspector.

(4) The master of a conveyance shall—

(a) provide an inspector with such documents and other information in his possession or control concerning the conveyance and its contents as the inspector requests, or as may be prescribed; and

(b) complete such a declaration concerning the conveyance the effective application and maintenance of quarantine in accordance with this Act.

(c) comply with any direction given by an inspector concerning the effective application and maintenance of quarantine in accordance with this Act.

[PCh133s11]11. Packing material

No person shall introduce into Tanzania as packing material any hay, straw, rice husks, peat, chaff, or other substance likely to harbour or support harmful organisms.

[PCh133s12]12. Plants, plant products, etc., in transit

(1) For the purposes of this Act, any plant or plant products or other things to which this Act applies, which is brought from a country into Tanzania, in transit to a third country shall, having being sealed and secured to the satisfaction of an inspector, be regarded, so far as may be, as if it were in quarantine under this Act while awaiting reshipment.

(2) If the state of quarantine referred to in subsection (1) of this section is breached for any reason, the plant or plant products or other things concerned shall be regarded for the purposes of this Act as having been imported into Tanzania contrary to this Act.

[PCh133s13]13. Seizure of illegally imported plants

(1) Subject to subsection (2) of this section, anything imported into Tanzania contrary to this Act shall be seized by an inspector, and, at the importer's expense, be treated, destroyed or otherwise dealt with as the inspector thinks fit, or may be taken to a post-entry quarantine station for such further inspection, treatment and disposal as may be required.

(2) No inspector shall destroy anything under subsection (1) unless with concurrence of the inspector-in-charge.

[PCh133s14]14. Declaration of points of entry and quarantine stations

The Minister may, from time to time, by notice published in the Gazette—

(a) declare any points of entry to be the only points where plant and plant products, harmful organisms, beneficial organisms, soil or any other material or substance provided under this Act, may be imported into Tanzania; and

(b) declare any suitable premises to be quarantine stations, or post-entry quarantine stations.

[PCh133s15]15. Export of plants, plant products, etc.

(1) The Minister may, from time to time, by notice published in the Gazette declare that any plant or plant products carrying any harmful organism in excess of an amount specified in the notice shall not be exported from Tanzania.

(2) Certification that plants or plant products are free from harmful organisms shall be as prescribed.

PART III

PLANT PROTECTION SUBSTANCES AND PLANT RESISTANCE IMPROVERS (ss 16-29)

[PCh133s16]16. Regulations on plant protection substances, plant resistance improvers and register

Minister shall, to the extent that it is necessary to the protection of human and animal health or for averting dangers, particularly where the natural environment is concerned, issue regulations to prohibit, limit or make subject to the obtaining of a prescribing permit or to notification requirements—

(a) the application of specific plant protection substances or of plant protection substances containing specific substances, or, of plant protection substances using specific equipment or processes;

(b) the cultivation of specific plant species on and where the soil has been treated with specific plant protection substances;

(c) the supplying to users of plant protection substances coming within the purview of this section in accordance with subparagraph (a) above;

(d) the importation of seed, planting stock or culture substrate in or on which are to be found plant protection substances coming within the purview of this Act;

(e) the establishment and maintenance of a register of plant protection substances indicating the name, specified minimum quality suitability for use, manner,

time, place and process and such other particulars as may be required for every plant protection substance which may, subject to the conditions imposed by the Minister, be manufactured or compounded in or imported into Tanzania;

(f) prescribing application forms for the purpose of plant protection substances registration and for requisition of any information as may be required;

(g) prescribing the manner in which samples are to be taken for the purposes of analysis or examination;

(h) requiring manufacturers, importers or dealers of plant protection substances or of any substance used in the manufacturing of plant protection substance to keep and produce records and furnish returns to the Government;

(i) prescribing minimum standards as to the composition and efficacy of plant protection substance and substances capable of being used in the manufacturing of plant protection substances;

(j) prescribing the procedure to have plant protection substances registered;

(k) prescribing for prior information consent (PIC) procedure on the importation and exportation and use of plant protection substances according to the framework of the Food and Agricultural Organisation of the United Nations Code of Conduct on the Distribution and Use of Pesticides.

[PCh133s17]17. Application for the registration of plant protection substances

(1) Registration of a plant protection substance may be applied for by—

(a) the producer of the plant protection substance;

(b) the marketing firm, if the plant protection substance is to be marketed for the first time in the country, and;

(c) the importer of that plant protection substance.

(2) Subject to the regulations provided under sections 16 and 42 of this Act, the application for plant protection substance shall contain—

(a) the name and address of the applicant;

(b) the designation of the plant protection substance;

(c) details of its composition, particularly the nature and quantity of its ingredients, using the commonly employed scientific nomenclature;

(d) details of the field of its application;

(e) details on its possible dangers to human and animal health and the natural environment;

(f) details of procedures for its proper disposal or neutralisation;

(g) a draft of the instructions for use;

(h) the text of indications and markings intended for the containers and outer packaging or for the literature accompanying such packaging;

(i) details of the nature of the packaging materials; and

(j) information on suitable analysis procedures which can be carried out using commonly employed equipment at a reasonable cost and which can be used to reliably determine the residue left after the application of the plant protection substance, including

degradation and reaction products which may be dangerous to the health of human, animals and the natural environment.

[PCh133s18]18. Registration and publication of list of plant protection substances

(1) The Minister shall register the plant protection substance if the application procedures under section 17 of this Act have been complied with and after the analysis of the plant protection substance show that—

(a) the plant protection substance is sufficiently effective according to the currently available scientific knowledge and techniques;

(b) the precautions necessary for the protection of human and animal health and environment in dealing with such protection substance do not require otherwise; and

(c) the plant protection substance when used for its intended purposes and in the correct manner, or as a result of such use, does not have any harmful effects on human and animal health, ground water and the natural environment which are not justifiable in the light of the present state of scientific knowledge.

(2) The Minister may, by a notice published in the Gazette amend or supplement conditions set out in subsection (1) of this section at a later date when he deems necessary to do so.

(3) The period for which the registration of any plant protection substance made under this section shall remain valid, shall not exceed ten years.

(4) The Minister may, for good cause, and after giving the person on whose application a plant protection substance was registered an opportunity to show cause why

the registration of that plant protection substance shall not be cancelled, cancel the registration of plant protection substance.

(5) The Minister shall publish in the Gazette, a list of any plant protection substance registered and, shall from time to time amend the list to delete from that list any plant protection substance the registration of which has been cancelled or whose term of registration has expired.

(6) Any person who, makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reasons to know to be false for purposes of obtaining registration of a plant protection substance shall be guilty of an offence and liable to a fine of not less than ten million shillings but not exceeding one hundred million shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

[PCh133s19]19. Manufacturing, importation, or sale, etc., of unregistered plant protection substances

(1) Any person who manufactures, compounds, imports, distributes, sells, or offers or exposes for sale or uses or causes to be used any plant protection substance other than a registered plant protection substance, shall be guilty of an offence and liable to a fine of not less than ten million shillings but not exceeding one hundred million shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Notwithstanding the provisions of subsection (1) above, it shall be a defence for a person charged with an offence under this section to prove that the manufacturing, compounding, importation, distribution, sale, offer or exposure for sale, as the case may

be, of the plant protection substance, was authorised by the Minister under subsection (3) of this section or was for the purpose of bona fide research or analysis or was not intended for export.

(3) Notwithstanding any provision in this Part, the Minister may, for a period not exceeding one hundred and twenty days, allow the manufacturing, compounding, importation, distribution, sale, offer or exposure for sale, as the case may be, of any plant protection substance in cases where the delay caused by the process of registering such plant protection substance would result in dangerous effects on the health of plants or plant products.

[PCh133s20]20. Labelling of registered plant protection substances

(1) Every registered plant protection substance, distributed, sold, offered or exposed for sale shall bear on the container thereof, in understandable Kiswahili and English, a distinguishing name, a true description of its active ingredients in relation to its net weight or volume, a list of crops that it is to be applied to, a description of precautions to be taken on its use, instructions on disposal of used plant protection substance containers and information on disposal of used plant protection substance containers and information on disposal of spills, any appropriate warning symbols or pictograms, the registration number, the name and address of the holder of the registration certificate or, of the provisional clearance, the formulation and "use before" date, batch number and the name of the registration authority.

(2) Any person who distributes, sells, offers or exposes for sale any registered plant protection substance which does not conform with the requirement of this section or

of any regulation made under the requirement of this Act, shall be guilty of an offence and liable to a fine of not less than two million shillings but not exceeding ten million shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

[PCh133s21]21. Taking and submission of plant protection substance sample for analysis

(1) Any purchaser of any plant protection substance capable of being used in the manufacturing, or preparation of plant protection substance or any inspector may submit a sample of such plant protection substance to an authorised national research institute for analysis or examination.

(2) Where a sample of any plant protection substance is taken with the intention of having it submitted to an authorised national research institute for analysis or examination, the person taking such sample shall, as soon as possible inform in writing the seller or the owner of the plant protection substance or his representative, of the intention to have the sample analysed or examined by an authorised national research institute.

[PCh133s22]22. Division and analysis of sample

(1) An inspection or any other person who takes or purchases a sample for purposes of analysis or examination, shall divide it into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and unless he sooner decides not to have the sample analysed or examined, shall give one part to the premises from which it was obtained or a representative of any of them, one part to an authorised national research institute and the other part shall be retained by him.

(2) An authorised research institute shall, as soon as possible after receiving a sample obtained under this Act, analyse or examine the sample, as the case may be, and give to the person by whom it was originally submitted a certificate, in the prescribed form, setting out the findings of the analysis or examination and such observation as it may consider necessary or desirable and shall forward a copy of such certificate to the person who received a part of the sample in accordance with subsection (1).

[PCh133s23]23. Procurement of sample

Where any person procures a sample under subsection (1) of section 22 and the division into parts of such sample—

- (a) is not reasonably practicable; or
- (b) might affect the composition or impede the proper analysis or examination of the sample,

the provisions of this section with respect to the division of samples into parts shall be deemed to have been complied with if the person taking the sample procures three separate fair amounts of the plant protection substance and deals with each lot as if it were a part in the manner provided by this subsection and, reference in this Act to a part of sample shall be construed accordingly.

[PCh133s24]24. Giving false information in connection with manufacturing, importation or sale of plant protection substance and offences

Any person who, knowingly makes any false statement, issues or maintains any false or misleading declaration, document, marking or description of a plant protection substance in connection with manufacturing, importation or sale of plant protection

substance or any substance, capable of being used in the manufacturing of plant protection substances, shall be guilty of an offence and liable to a fine of not less than ten million shillings but not exceeding one hundred million shillings or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

[PCh133s25]25. Power of the court

A court convicting a person of any offence under this Part may order that—

(a) the plant protection substance or other substance used in the manufacturing of plant protection substance in respect of which the offence was committed, shall be forfeited and subsequently disposed of as the court may direct;

(b) the person convicted shall pay the whole or any part of the fees or other expenses incurred in the examination or analysis of any plant protection substance or other substance.

[PCh133s26]26. Evidence

In any proceedings under this Part—

(a) a sample of any plant protection substance obtained by any inspector shall be deemed to be a fair sample and to possess in all respects the same properties as the whole from which it was obtained;

(b) a certificate of analysis issued by an authorised national research institute shall be admissible without further proof and shall be sufficient evidence of the facts or observations stated therein unless the other part requires that the authorised national research institute shall be called as a witness;

(c) where a sample has been procured or obtained in such circumstances that its division into parts is required by this Act, the sample retained by the person who procured it shall be produced at the hearing.

[PCh133s27]27. Handling and use of plant protection substances according to good professional practice and plant resistance improvers

(1) Plant protection substances and plant resistance improvers shall be used only in accordance with good professional practice.

(2) The Minister shall issue or cause to be issued a Code of Conduct for the proper use of plant protection substance, plant resistance improvers and equipment, which shall include, but not limited to, the following—

(a) measures to minimise or discourage the use of plant protection substances, plant resistance improvers and equipment, and other measures which do not attach priority to biological, biotechnological, plant breeding, cultivation and cropping measures;

(b) discouraging or prohibiting the use of plant protection substances, plant resistance improvers and equipment in cases where it is expected that their use will have harmful effects on health of man, animals, ground water or the natural environment;

(c) compulsory requirements to the users of plant protection substances, plant resistance improvers and equipment to observe directions for use;

(d) requirements to any person who applies plant protection substance, plant resistance improvers and equipment within the framework of this Act or instructs or supervises persons who apply the plant protection substances, plant resistance improver and equipment, to have necessary degree of reliability and possess the necessary specialist

knowledge and skills and to ensure that, the use of plant protection substances and equipment does not result in any avoidable harmful effects on the health of man, animals and the natural environment;

(e) requirements to a person using plant protection substance or plant resistance improvers to furnish proof that he possesses such specialist knowledge and skills for use of the plant protection substance as he is required;

(f) prohibition of the marketing of the plant protection substances or plant resistance improvers in retails trade by means of vending machines or other forms of self service;

(g) prohibition of retail selling of plant protection substances, plant resistance improvers and equipment, wholly or in part, if certain facts justify the assumption that the trader or person selling plant protection substances and equipment for him does not possess specialist knowledge necessary for properly informing the purchaser about the use of the plant protection substances, plant resistance improvers and equipment and the risk involved;

(h) requirements to traders or persons selling the plant protection substances, plant resistance improvers and equipment on their behalf to furnish proof that they possess the necessary specialist knowledge;

(i) prohibition of all kinds of handling of plant protection substances, plant resistance improvers and equipment by minors, people of unsound mind and people in any other proven state or condition, who when handling plant protection substances, plant resistance improvers and equipment, may be predisposed to harmful effects;

(j) provisions for punitive measures, including the cancellation of registration, to any person who contravenes the Code of Conduct.

[PCh133s28]28. Plant resistance improvers

Plant resistance improvers shall only be used if—

- (a) they have no harmful effects on the health of man, animals and the environment;
- (b) have been registered and published in the Gazette;
- (c) have been labelled according to section 20 of this Act.

[PCh133s29]29. Plant protection equipment

(1) Plant protection equipment shall only be marked if it is designed such that when it is used correctly and in accordance with its intended purpose for the application of plant protection substances or plant resistance improvers it does not produce any harmful effects on human and animal health, ground water and natural environment, which, on the basis of the current state of art are avoidable.

(2) Subject to the provisions of subsection (1) of this section, before plant protection equipment is marketed for the first time, the manufacturer, the marketing firm or the importer shall, inter alia, declare to the Minister—

- (a) the name and the address for the manufacturer, marketing firm or importer;
- (b) the designation of the equipment type and the field of use;
- (c) the instructions for use accompanying the equipment;
- (d) a description of equipment type; and

(e) any other document or information necessary for its evaluation.

(3) The document or information referred to in subsection (2) above, shall be re-submitted or supplemented in the event of modifications to the equipment type which influence its performance in the application of plant protection substances or plant resistance improver.

(4) The Minister shall keep a list of equipment types for which a declaration has been submitted and shall publish in the Gazette, entries in the plant protection equipment list.

(5) The Minister may appoint a competent research institute to test the plant protection equipment to establish whether it fulfils the requirements of subsection (1) above, especially in cases where the declaration or the accompanying documents give rise to doubts as to whether the equipment fulfils such requirements.

(6) If the testing under subsection (5) reveals that the plant protection equipment or one of its terms does not fulfil the requirements, the authorised research institute may advise the Minister to delete the relevant entry from the plant protection equipment list or to order the manufacturer, marketing firm or importer, as the case may be, to correct the identified imperfections within a specified period.

PART IV

ASSIGNMENT OF DUTIES AND APPOINTMENT OF OFFICERS (ss 30-38)

[PCh133s30]30. Assignment of duties and appointment of officers

(1) The Minister, may, with the exception of the power of delegation, assign or delegate some or all of his powers under this Act.

(2) Every assignment or delegation by the Minister shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister.

(3) In exercising the power of delegation, assignment or appointment, the Minister may enter into contracts with competent individuals or institutions, the conditions of which, notwithstanding the provisions of subsection (2), of this section he shall observe.

(4) The Minister may prescribe schedules specifying functions under this Act which may be delegated to any specified individual or institution.

[PCh133s31]31. Establishment of the National Plant Protection Advisory Committee and its functions

(1) It is hereby established a committee known as the National Plant Protection Advisory Committee and by the acronym NPPAC.

(2) The Committee shall—

(a) act as a scientific advisory agent to the Minister or any other person appointed by him on matters concerning the registration and use of plant protection substances plant quarantine and crop pest control;

(b) recommend to the Minister the most efficient methods of implementing the provisions of this Act;

(c) advise the Minister on any other matter, as he may, from time to time request.

(3) The Minister shall prescribe the composition of the NPPAC and its operation procedures.

[PCh133s32]32. Research Institute

(1) Without prejudice to the generality of section 30, the Minister shall appoint any competent research institute and delegate to it such powers or duties as required under sections 21, 22, 26 and 29, of this Act.

(2) In the document of delegation under subsection (1), the Minister shall define duties and rights of the Research Institute which shall include, but are not limited to—

(a) carry out research or analysis within the scope and purposes of this Act, including keeping records, evaluation and provision of information;

(b) perform plant quarantine, investigation, research and coordination;

(c) participate in the monitoring of plant protection substances and plant resistance improvers;

(d) participate in the monitoring of plant protection equipment types entered in the plant protection equipment list;

(e) test plant protection equipment;

(f) test and develop plant protection methods;

(g) test plants for their resistance to harmful organisms;

(h) test plant resistance improvers;

(i) test equipment and devices which are used in plant protection but which are not plant protection equipment;

(j) conduct specialist training in the field of plant protection;

(k) charge fees or otherwise generate revenue from the services rendered;

(l) ensure that the revenue generated from the fees or any other charge guarantee sustainable and quality services; and

(m) disengage itself, directly or indirectly in any trade or business connected with the manufacturing, importation, sale or distribution for sale of any plant protection substances or plant resistance improver.

[PCh133s33]33. Appointment of Inspectors

The Minister shall appoint, from time to time, by notice published in the Gazette, such inspectors as may be necessary for the purposes of this Act.

[PCh133s34]34. Powers of Inspectors

(1) An inspector may, for the purposes of this Act, and at all reasonable times and on production, if required, of his authority—

(a) detain, open, inspect, sample, submit for examination, direct removal to a quarantine station, remove for treatment and treat any plants or plant products, plant protection substance, plant resistance improvers, harmful organism, beneficial organism, soil, packaging or other things to which this Act applies in such manner as he thinks fit;

(b) direct shipment or otherwise dispose of any plant or plant products, harmful organism, beneficial organism, soil, packaging or other things to which this Act applies, or, with the concurrence of the inspector in-charge, order its destruction;

(c) inspect any land, store, warehouse, go-down or other premises used for handling or storing plants or plant products, and if such premises are found to be infested by any harmful organism, to subject them to such treatment as the inspector may direct;

(d) with the concurrence of the inspector in-charge, order the destruction of any plant or plant products which he has reason to believe is infested by a quarantine pest;

(e) inspect any premises, vehicle, vessel, aircraft or any conveyance in which any plant, protection substance, plant resistance improver is kept or in which he has reasonable grounds for suspecting that any plant protection substance and plant resistance improver is kept;

(f) seize and remove any plant protection substance, plant resistance improver and any books, records or other documents relating to such plant protection substance, plant resistance improver from any premises, vehicle, vessel, aircraft or any conveyance if he has reasonable cause to believe that such plant protection substance and plant resistance improver has been manufactured, compounded, imported, sold or offered or exposed for sale in contravention of this Act;

(g) take samples of plant protection substances and plant resistance improver for the purpose of sending it to the authorised research institute for analysis or examination;

(h) require any person in occupation of the premises or any agent or servant of any such person, or any person in-charge of the vessel, vehicle or aircraft or any conveyance, to furnish all such information, to produce for inspection all such books, records or other documents and to furnish all such means of inspection as he may reasonably require for the purposes aforesaid;

(i) to prosecute or assist in the prosecution of offenders under this Act; and

(j) inspectors shall have such other powers as are necessary or convenient for the performance of their functions under this Act, and as may be vested in them by regulation made under this, or any other, Act.

(2) An inspector shall take such steps as are reasonably practical to afford the owner of any plants or plant products, harmful organisms, beneficial organisms, plant protection substances, plant resistance improver, soil, premises, vehicles, vessel or aircraft, or the person in-charge thereof, as the case may be, an opportunity to be present while an inspector under this Act is being carried out.

(3) An inspector shall not, directly or indirectly engage himself in any trade or business connected with the manufacturing, importation, sale or distribution for sale of any plants or plant protection substances, plant resistance improver, harmful organisms, beneficial organisms or any other substance to which this Act applies.

(4) At any time when anything is seized under this Act, the person in custody or possession of that thing shall be given a written receipt for it.

(5) An inspector shall not be liable for any loss or damage resulting from the reasonable exercise of powers conferred by this Act.

[PCh133s35]35. Obstruction

(1) Any person who—

(a) wilfully delays or obstructs an inspector in the exercise of his powers under section 34; or

(b) refuses to furnish any information, to produce any documents or to furnish any means of inspection, when required to do so under section 34,

shall be guilty of an offence and liable to a fine not less than two million shillings (2,000,000/=) but not exceeding ten million shillings (10,000,000/=) or to imprisonment for a term not exceeding three months or both such fine and imprisonment.

(2) No person shall be required under this section to answer any question tending to incriminate him.

(3) Subject to section 41 of this Act, if an inspector applies to purchase any plant or plant product, beneficial organisms, harmful organisms, soil, plant protection substance or any substance used in the manufacture or protection of the plant or plant product, beneficial organism, harmful organism, soil or plant protection substances or plant resistance improver for sale and tenders the price for the quantity which he requires as a sample, and the person offering or exposing the plant or plant product, beneficial organism, harmful organism, soil or plant protection substance or plant resistance improver for sale refuses to sell to the inspector such quantity thereof as aforesaid, or if the seller, consignor or any person having for the time being the charge of any plant or plant product, beneficial organism, harmful organism, soil or plant protection substance or plant resistance improver of which an inspector is empowered to take a sample, refuses to allow the inspector to take the quantity which he requires as a sample, the person so refusing shall, for the purposes of subsection (1), be deemed to have wilfully obstructed the inspector;

(4) Where any plant or plant product, harmful organism, beneficial organism, soil or plant protection substance or plant resistance improver is exposed for sale in unopened

container duly labelled, no person shall be required to sell it except in the unopened container in which it is contained.

[PCh133s36]36. Duties of other officials

(1) Officers in the customs and postal services shall provide whatever assistance as is necessary to inspectors for the performance of their functions and the exercise of their powers this Act, and in particular shall—

(a) notify an inspector of the importation of anything to which this Act applies;
and

(b) handover to an inspector any such thing for inspection and subsequent action in accordance with this Act.

(2) Harbours, airports, post offices and other authorities at points of entry shall provide on their premises, for the purposes of this Act—

(a) a suitable area for office and inspection facilities;
(b) suitable containers for holding garbage and conveying it for destruction;
and

(c) suitable and adequate space for display of public notices regarding the requirements of this Act.

[PCh133s37]37. Duties to the public, reporting of imported plant, plant products, etc.

A person who receives any plant, plant product, beneficial organism, harmful organism, plant protection substance, plant resistance improver, soil or any other material or substance, plant resistance improver, soil or any other material or substance to which

this Act applies, from outside Tanzania shall, on receipt, notify an inspector, and shall carry out at his own expense and to the satisfaction of the inspector such directions as the inspector may give as to its inspection, treatment, destruction, or any other means of disposal.

[PCh133s38]38. Charges for administrative expenses

(1) The Minister may, after consulting the Minister for Finance, determine, by regulation, the services for which fees shall be charged and their corresponding charge rates.

(2) The Minister shall also provide, by regulation, how the revenue accruing from the charge under subsection (1) above shall be expended.

PART V

OFFENCES AND PENALTIES (ss 39-41)

[PCh133s39]39. Criminal liability of bodies corporate and their officers

(1) Any person who, by himself, his servant or agent, either directly or indirectly—

(a) import anything into Tanzania otherwise than in accordance with this Act;

or

(b) possesses, keeps, or distributes anything introduced to Tanzania contrary to this Act;

(c) possesses, keeps, distributes or introduces any quarantine pest, plant or plant product, beneficial organism, soil, packaging or other thing knowing to be infested by a quarantine pest; or

- (d) exports any plant or plant product from Tanzania contrary to this Act;
 - (e) fails to perform any duty or obligation imposed on him by this Act, or to comply with any order or direction given by the Minister or his delegate or an inspector, or does any other act in breach of this Act; or
 - (f) hinders, threatens, or assaults any authorised person or inspector in the performance of his duty under this Act; or
 - (g) knowingly makes a false statement to an inspector, or a false declaration, under the requirement of this Act,
- shall be guilty of an offence.

(2) Any person guilty of an offence under this Act shall be liable on conviction—

(a) in the case of a body corporate, to a fine not less than two million shillings (2,000,000/=) but not exceeding one hundred million shillings (100,000,000/=); or

(b) in the case of a natural person, to a fine not less than two million shillings (2,000,000/=) but not exceeding ten million shillings (10,000,000/=) or to a term of imprisonment of three years or both such fine and imprisonment;

(c) in the case of a persistent offender, whether a corporate body or a natural under paragraphs (a) and (b) above, the withdrawal of any licence, certificate, prescribed permit, registration, or any other right held by the offender under this Act.

(3) Where an offence under this Act which has been committed by a body corporate is proved to be committed with consent or connivance or to be attributable to any neglect on the part of any director, manager, corporate secretary, or other similar officer or any other person purporting to act in such capacity, he as well as the body

corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished according to this section.

[PCh133s40]40. Costs of treatment, etc.

If any person, by failing to comply with this Act or acting contrary to this Act, causes an inspector to incur an expense that would not otherwise have been incurred, that person shall pay to the Government of the United Republic of Tanzania the full amount of that expense reasonably incurred, and that amount shall be recoverable from him as a debt to the Government of the United Republic of Tanzania.

[PCh133s41]41. Losses, expenses, etc.

For the avoidance of doubt, it is hereby declared that—

(a) any removal, treatment, reshipment, or destruction of things to which this applies in accordance with the requirements of this Act, shall be carried out at the expense of the owner, importer, occupier or any person in-charge of the thing concerned, as the case may be; and

(b) the Government shall not be liable for any costs or losses resulting directly or indirectly from actions taken under this Act.

PART VI

MISCELLANEOUS PROVISIONS (ss 42-43)

[PCh133s42]42. General regulations

(1) The Minister may make regulations for the better carrying out of provisions and purposes of this Act, without prejudice to the generality of this subsection, may make regulations—

(a) empowering officers of the Government, specified therein to require any person to afford such reasonable assistance for the destruction of outbreak pests as such officers may consider necessary, and to take possession of and use for the purpose of the destruction of outbreak pests, any beasts of burden, and any machinery, implements, which such officers may require for that purpose;

(b) empowering officers of the Government, specified therein to require occupier of land or owner to do specified work necessary for the destruction of outbreak pests upon such land within times specified by such officer and in default of such work being done, to enter upon such lands with such assistants as they may require and to do such work, and to recover on behalf of the Government from person in default all expenses therein incurred;

(c) requiring persons observing outbreak pests in whatever stage of their development to report the fact to some person specified;

(d) requiring owners or occupiers of land to destroy outbreak pests which may be discovered;

(e) empowering Government officers to monitor and give professional advice to the occupiers or owners of land on control and containment of outbreak pests;

(f) providing for the payment of compensation for damages occasioned to any animals, machinery, implements, or vehicles requisitioned thereunder;

(g) governing the application of specific plant protection substances or of plant protection substances containing specific substances, or, of plant protection substances using specific equipment or processes;

(h) governing the cultivation of species on land where the soil has been treated with specified plant protection substances;

(i) governing the cultivation of species on land where the soil has been treated with specific plant protection substances;

(j) government the importation of plant and plant products in or on which are to be found protection substances coming within the purview of this Act;

(k) providing for the establishment and maintenance of a register of plant protection substances indicating the name, specified minimum quality, suitability for use, manner, time, place and process and such other particulars as may be required for every plant protection substance which may, subject to the conditions (if any) imposed by the Minister, be manufactured or compounded in or imported into Tanzania;

(l) prescribing the manner in which samples are to be taken for the purposes of analysis or examination;

(m) requiring manufactures, importers or dealers in plant protection substances or of any substance used in the manufacturing of plant protection substance to keep and produce records and furnish returns to the Government;

(n) prescribing minimum standards as to the composition and efficacy of plant protection substance and substances capable of being used in the manufacturing of plant protection substance;

(o) prescribing the procedure to have plant protection substances registered;

(p) providing codes of conduct for proper use and handling of plant protection substances, plant resistance improver and equipment as provided under sections 27, 28 and 29;

(q) prohibiting or restricting the importation into Tanzania, any plant or plant product, any soil, packaging, any harmful organism, or any other material or substance to which this Act applies, likely to carry harmful organisms;

(r) prescribing conditions for the importation of plant material or beneficial organisms into Tanzania, including the manner of application for, and the form and contents of, a prescribed permit under section 8 of this Act;

(s) prescribing the manner of giving notes, and the form of declaration to be made by persons arriving into Tanzania;

(t) providing for the manner of inspection, detention, treatment, destruction, reshipment or other disposal means of any imported plant or plant products, soil, packaging;

(u) to provide for the manner in which and the conditions subject to which, quarantine stations and post entry quarantine stations shall be used;

(v) providing for the control of plant material kept or grown in isolation other than in a quarantine station or post entry quarantine station;

(w) provide for the registration of persons importing propagative material;

(x) prescribing the manner of importation into Tanzania of anything for research purposes under section 9;

(y) providing for the registration procedure of products of plants or plant products for export;

(z) prescribing the treatment and subsequent issuance of phytosanitary certificate for plant or plant products before export;

(aa) prescribing declaration forms and documents required for purposes of inspecting a conveyance;

(bb) prescribing forms to be used for any purpose under this Act;

(cc) after consulting the Minister for Finance, determining the services for which fees shall be charged and their corresponding charge rates;

(dd) providing how the revenue accruing from the charge shall be expended;

(ee) prescribing the manner for the appointing, assigning or delegating some or all of his powers provided under this Act;

(ff) providing under any directions issued or requisitions made, for a penalty, not exceeding a fine of ten million shillings (10,000,000/=) or imprisonment not exceeding three years or both such fine and imprisonment;

(gg) prescribing for prior information consent (PIC) procedure on the importation, exportation and use of plant protection substances according to the framework of the Food and Agricultural Organisation of the United Nations Code of Conduct on the Distribution and use of Pesticides; and

(hh) prescribing anything which may be prescribed under this Act.

(2) Regulations made under this section shall be published in the Gazette.

(3) Where regulations are made which are not of general application, the Minister may, in addition to or in lieu of publication in the Gazette, publish the regulations in such a manner as will, in the opinion of the Minister, ensure that the contents come to the notice of the persons or categories of persons to which they apply and of the members of the public who might be affected by such regulations.

[PCh133s43]43. Repeals, amendment and savings

(1) [Repeals the Plant Protection Ordinance *, the Locust Ordinance * and section 4(c), 13 and Part V of the Tropical Pesticides Research Institute Act * , subject to the provisions of subsection (2).]

(2) Any applicable regulations, rules, orders or notices made under the Plant Protection Ordinance, the Locust Ordinance and the Tropical Pesticides Research Institute Act, and in force, shall remain in force, so far as may be, as if they have been made as regulations, rules, notices or orders under this Act until such time as they are amended or revoked by regulations, rules, notices or orders made under this Act.