

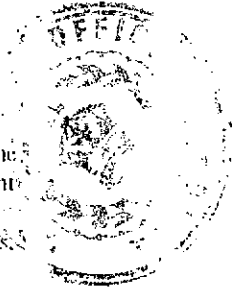
ONGA GOVERNMENT GAZETTE SUPPLEMENT EXTRAORDINARY

WEDNESDAY 20th DECEMBER

1995

PLANT QUARANTINE ACT (Section 3)

PLANT QUARANTINE REGULATIONS 1995



IN EXERCISE of the powers conferred by section 3 of the Plant Quarantine Act (Cap. 127), the Minister of Agriculture and Forestry, with the consent of the Privy Council, makes the following Regulations:-

1. These Regulations may be cited as the Plant Quarantine Regulations, 1995.

PART I - INTERPRETATION

2. In these Regulations, unless the context otherwise requires:

"Act" means the Plant Quarantine Act (Cap. 127);

"baggage" means any goods brought into the country by a passenger arriving by sea or by air from overseas;

"culture" means a growth of an organism for the purpose of experiment or propagation especially on laboratory media (culture media);

"dunnage" means timber, usually of low grade, used in stowage of goods in conveyances such as vessels or cargo containers;

"port of entry" means the designated location through which plants, plant material and other regulated goods may enter the country from overseas;

"goods" means any moveable property;

"inspection" means examination of plants, plant material or goods including soil by an Inspector or a specialist officer of the Ministry of Agriculture and Forestry for the purpose of detecting pests. Such inspection may involve removal of plants, plant material, goods or soil or a sample of them to a quarantine station or laboratory where special facilities are available;

"owner" means the person responsible for plants, plant material, plant pests, goods or soil, or the person to whom they are consigned or by whom they are being exported or the person in charge of the conveyance in which they are being carried or have been carried;

"plants in tissue culture" means plants in a clear aseptic medium in a closed transparent container;

"quarantine area" means any land where a specified pest is found together with specified adjoining land declared by the Minister to be a quarantine area for a prescribed period of time;

"quarantine pest" means a pest of potential national economic importance to Tonga and not yet present or present but not widely distributed and being actively controlled;

"timber" means logs, poles, dunnage, branchwood, firewood, bark and all wood, which has been split, hewn, sawn or dressed or otherwise manufactured and including prefabricated building units, shakes, shingles and wooden cases or boxes.

PART II – General Requirements Ports of Entry

3. No plants, plant material or other regulated article may be imported into Tonga except in accordance with section 23 of the Act.

Inspection of Plants or Non-Plant Material

4. (1) All plants, plant material, soil or any goods, the entry of which in the opinion of an Inspector presents a risk of introducing a plant pest to Tonga, shall be subject to inspection by an Inspector and to treatment for the prevention of entry of plant pests or to destruction or re-exportation to the country of origin as the case may be.

(2) All treatments will be at the risk of the importer or his agent.

Requirements of all Persons Entering Tonga

5. Every person arriving from overseas shall be required to make a declaration in a form prescribed by Notice of the Minister.

Declaration by Persons Introducing Plants or Plant Material

6. No person may introduce into Tonga any plants, plant material or other goods the subject of these Regulations unless the provisions of these Regulations have been duly complied with and shall complete a declaration on Form 1 of the First Schedule.

Availability of Documents

7. An Inspector may request that shipping documents for plants, plant material or goods arriving in Tonga on any conveyance be made available for inspection for any purpose under the Act or Regulations.

Placement in Quarantine

8. Where an Inspector is not satisfied that the imported plant, plant material or goods are free of plant pests, shall advise, where appropriate, the importer, the Collector of Customs, the Secretary for Marine and Ports or the Postmaster that the plants, plant material or goods are to be held under quarantine and not released to the importer until an Inspector is satisfied the plant pest has been eliminated.

Treatment

9. (1) Where imported plants, plant material or goods have been held under quarantine, an Inspector may order any treatment he considers appropriate, at the importer's expense.

(2) On making an order under the preceding sub-regulation, the Inspector shall make a report on Form 1 of the First Schedule.

(3) Where plants, plant material or goods are held following interception, the Inspector shall make a report on Form 2 of the First Schedule.

(4) Where plants, plant material or goods are held under the preceding sub-regulation, the owner or importer shall contact the quarantine office specified on Form 2 within 30 days. Should the owner or importer fail to do so, the Inspector shall order that the goods be destroyed.

Release of Plant Material or Goods

10. Provided all other requirements of these Regulations for the imported plants, plant material or goods have been met following satisfactory inspection or satisfactory conclusion of a treatment, an Inspector shall advise where appropriate the importer, the Collector of Customs, the Secretary for Marine and Ports or the Postmaster on Form 3 of the First Schedule, that all requirements of these Regulations have been met and the imported plants, plant material or goods may be released to the importer.

Expenses of Transport, Storage, Unpacking and Treatment

11. Prior to the release of any imported plants, plant material or goods, the importer or owner may be required by an Inspector to provide for or meet the cost of transport, unpacking, security, storage and treatment including cleaning and sorting.

Seizure and Destruction

12. (1) Any plants, plant material or goods imported without a permit, or in breach of a prohibition on importation may be seized by an Inspector and destroyed on the order of -

(a) an Inspector where the declared value of the imported goods does not exceed \$200.

(b) the Director in all other cases.

(2) Upon seizing plants, plant material or goods and before ordering destruction under the preceding sub-regulation, the Inspector shall submit a report to the Director on Form 4 of the First Schedule.

Disposal of Plants, Plant Material or Goods Carrying or Believed to be Carrying a Plant Pest

13. Where any plants, plant material or goods imported in accordance with these Regulations appear on examination or re-examination by an Inspector to be carrying a plant pest that cannot effectively be eradicated, the Inspector may order the importer to re-export the plants, plant material or goods within a specified period and if the importer shall fail to do so within that time, an Inspector shall order the destruction of the whole or that part of the consignment that includes plants, plant material or goods.

Inspection and Treatment for Conveyances Arriving from Overseas

14. (1) Immediately on the arrival of any conveyance from an overseas country, the conveyance together with its contents, cargo and baggage may be inspected and ordered for treatment by an Inspector. No person shall enter the conveyance or remove anything from the conveyance without the authority of the Inspector until the inspection is completed.

(2) On completion of such inspection of a conveyance, the Inspector shall fill in Form 5 of the First Schedule.

(3) The Inspector may order any treatment that he considers necessary.

(4) On completion of all actions under this regulation, the Inspector shall complete a clearance certificate on Form 6 of the First Schedule.

Any Plants, Plant Material or Goods may be Ordered Back into Quarantine:

15. (1) An Inspector may examine plants, plant material or goods that have been released from quarantine.

(2) When after any examination under the preceding sub-regulation the Inspector considers the plants, plant material or goods may be harbouring a plant pest, he may order them back into quarantine for treatment.

Approved Places for Quarantine

16. (1) The following places are established as quarantine stations -

- (a) Queen Salote Wharf, Nuku'alofa
- (b) Halaevatu Wharf, Neiafu, Vava'u
- (c) Pangai Wharf, Lifuka Island, Ha'apai
- (d) Pasivulangi Wharf, Niuatoputapu
- (e) Futu Wharf, Niuafu'ou
- (f) Fua'amotu Airport, Tongatapu
- (g) Lupepau'u Airport, Vava'u
- (h) Pilolevu Airport, Ha'apai
- (i) Mata'aho Airport, Niuatoputapu
- (j) Lavinia Airport, Niuafu'ou
- (k) Post Office, Nuku'alofa, Tongatapu
- (l) Post Office at Neiafu, Vava'u
- (m) Post Office, Niuatoputapu
- (n) MAF Research Farm, Vaini
- (o) MAF Research Farm, Vava'u
- (p) MAF Compound, Ha'apai
- (q) MAF Compound, Niuafu'ou

- (2) The Minister may prescribe by Notice any place as an approved place for quarantine with such limitations as he considers necessary.

Applications for Permits to Import

17. (1) Applications for permits to import plants, plant material or goods the subject of these Regulations shall be on Form 7 of the First Schedule and shall include:

- (a) full name, residential address and postal address of the importer,
- (b) name and address of exporter or supplier of plants, plant material or goods,
- (c) quantity and name (botanical name if known) of all material proposed to be imported,
- (d) mode of transport, port of entry and approximate date of arrival

(2) Any permit that is issued may include quarantine requirements.

(3) Permits to import shall be on Form 8 of the First Schedule.

Powers of Director

18. In addition to any powers under the Act or Regulations -

- (a) the Director may in writing delegate specific powers designated in the Act and these Regulations to nominated persons within the Ministry of Agriculture and Forestry and these delegations will remain effective until revoked in writing,
- (b) the Director shall recommend to the Minister appropriate conditions for the entry of plants, plant material and goods.

Plants, Plant Material, Plant Pests or Goods in Transit under Safeguard

19. Any plants, plant material, plant pests or goods in transit through the port of entry in Tonga to another country shall remain under the control of Quarantine until re-shipped. They will be subject to such permits, procedures and treatments as the Director may order.

Post-Entry Quarantine

20. The Director shall require for all imported live plants, including plants in tissue cultures and seedlings in sterile flasks: inspection on arrival; treatment as appropriate; and establishment in post-entry quarantine; or such other conditions as may be determined by the Director, taking due account of the risks of importing plant pests. Imported plants are to remain in post entry quarantine until the Director is satisfied the imported plants are free of plant pest.

PART III - IMPORTATION OF PLANTS, PLANT MATERIAL, PESTS, GOODS INTO TONGA

Importation of Plant Material Capable of Growth

21. (1) The importation of plants or plant material which can be propagated other than seed, may be limited to the smallest quantity of propagating material consistent with good horticultural practices and satisfactory establishment of the introduced plant.

(2) The importation of live plants or plant material is prohibited unless an import permit has been obtained in advance of importation.

(3) All imported plants and plant material shall be free from soil.

(4) An approved packing material may be used around the roots of the plants after the soil has been removed. Plants established in growing media, except in sterile flasks, are prohibited.

Importation of Seed

22. (1) The importation of seed is prohibited unless a permit is obtained in advance of importation.

(2) Small commercial packets of flower and vegetable seeds except beans, tomato and maize may be imported without a permit at the discretion of the Minister.

(3) All seed shall be free from injurious extraneous matter and shall be subject to such conditions as the Director requires.

(4) With the exception of seeds imported without a permit under sub-regulation (2), all seeds shall be accompanied by a phytosanitary certificate. The Director may require an official seed analysis report.

(5) Upon arrival, samples of seed may be drawn for examination and if necessary, in the opinion of an Inspector, treatment shall be applied. Seeds specifically restricted for importation are to be directed to a post-entry quarantine station or approved quarantine location for growth and examination in quarantine. For annual crops, only seed produced in quarantine shall be released and only if the Director is satisfied that the plants grown from imported seed are free of any quarantine pest. Perennial plants established from seeds that are restricted for importation for quarantine reasons shall be released if the Director is satisfied that the plants are not infested or infected with a quarantine pest.

Importation of Fruits and Vegetables

23. (1) The importation of fresh fruit and vegetables is prohibited unless a permit is obtained in advance of importation.

(2) The Director shall at the time of application for a permit determine entry status and any treatment necessary according to the pests present in the exporting country and the risk of establishment of the pests in Tonga.

(3) Frozen, canned or hermetically preserved fruit and vegetables may be imported without permit at the discretion of the Minister.

(4) Dried or candied fruits and vegetables prepared in such a manner as to make them unsuitable as pest carriers and which are not otherwise prohibited may be imported without permit.

Importation of Timber

24. (1) Importation of timber is prohibited unless a permit is obtained in advance of importation.
- (2) The Inspector may direct treatment for plant pests or contamination.
- (3) All second-hand timber shall be treated under the direction of the Inspector.

Importation of Cut Flowers

25. (1) The importation of cut flowers is prohibited unless a permit is obtained in advance of importation.
- (2) Subject of relevant provisions of these Regulations any cut flower including foliage except members of the families Orchidaceae and Heliconiaceae, may be imported if, on inspection at the port of entry, they are free from plant pests.
- (3) Any cut flower that can be propagated shall be treated in accordance with the directions of the Inspector.
- (4) Subject to these Regulations and with the exception of flowers referred to in sub-regulation (5), any dried flower including foliage may be imported if, on inspection at the port of entry, it is free from plant pests.
- (5) No dried flower of a plant producing agricultural seed or any plant specifically prohibited or restricted under these Regulations shall be imported.

Importation of Plant Material not Capable of Growth

26. The entry of any plant material including such material partially or wholly manufactured, assessed by the Director as a potential carrier for a serious exotic pest to agriculture and forestry in Tonga is subject to entry by permit specifying such conditions as the Director may require.

Importation of Soil

27. (1) No person shall import any soil whether by itself or with any plant material or as packing material in any form or adhering to any goods including vehicles and machinery unless an Inspector is satisfied that the soil will not introduce any pest.
- (2) Peat and other potting media, if free of contamination by soil, may be admitted subject to inspection and treatment if necessary.

Importation of Non-Plant Articles

28. Non-plant articles contaminated with soil or infested with plant pests or reasonably believed to be infested with plant pests are subject to such treatments as the Inspector shall require.

Importation of Packing Material

29. (1) Packing material shall be sphagnum moss, woodwool, ground cork, charcoal, shredded paper, perlite, foam rubber chips, vegetable fibre free from pulp, plastics or other material approved by the Director.

(2) Importation of hay, straw, chaff, soil or forest litter is prohibited.

(3) No second hand or used bags, containers, wrapping or packing materials which has been previously used for the carrying of plant material including seeds or which was manufactured to be used for that purpose is to be used for the import of any kind of goods.

(4) Any imported timber dunnage shall be destroyed by incineration unless treated under the direction of the Inspector.

Importation of Handicrafts made from Plant Material

30. Handicrafts which do not contain any material prohibited under these Regulations may be imported subject to inspection and treatment as required by an Inspector.

PART IV - SPECIFIC PROHIBITIONS

31. The plant varieties listed in the first column of the Second Schedule to these Regulations are subject to the specific prohibitions shown in the second column.

PART V - EXPORT REQUIREMENT

32. (1) An Inspector may issue phytosanitary certificates based on inspection of plants and plant material produced at the request of exporters where such a certificate is a requirement of the importing country.

(2) The certificates are to be issued only for plants or plant material produced in Tonga, or for plants or plant material produced in another country where the entry of such plants or plant material is accompanied by a phytosanitary certificate issued by the relevant authority of the country of origin.

(3) The issue of a phytosanitary certificate shall not release the exporter from compliance with any import regulation of the country to which the plants or plant material are consigned.

(4) The phytosanitary certificate used is to be based substantially on the Model adopted by the International Plant Protection Convention of 1951 as amended, and shall be on Form 9 of the First Schedule.

Treatment of Non-Living Plant Materials for Export

33. (1) A Phytosanitary Certificate shall not be issued for non-living plant material except where the issue of such a certificate is a requirement of the importing country.

(2) An Inspector may issue a certificate of treatment for any goods which have been treated under his supervision prior to export.

(3) The Treatment Certificate shall be on Form 10 of the First Schedule.

PART VI - EXPENSES AND FEES FOR PLANT QUARANTINE AND EXPORT OPERATIONS

34. (1) Any inspection, treatment, transport, re-exportation or destruction of plants, plant material or goods shall be carried out at the expense of the importer or consignee or the exporter under Part V of the Regulations.

(2) If any plants, plant material or goods are required by these Regulations to be inspected, examined, treated or held in quarantine, the importer or consignee and, in the case of Part V of these Regulations the exporter, shall pay the appropriate fee set out in Regulations under the Act.

PART VII - PLANT QUARANTINE FORMS

35. The forms in the First Schedule are hereby prescribed for the purposes of these Regulations.

PART VIII - REPEAL

36. Part I and Schedules 1, 11 and 111 of the Diseases of Plants Regulations are hereby repealed.

Made this 14 day of December 1995.

Vaca
Minister of Agriculture and Forests.