

REPUBLIC OF SOUTH AFRICA

PLANT HEALTH (PHYTOSANITARY) BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 44604 of
21 May 2021)
(The English text is the official text of the Bill)*

(MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT)

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BILL

To provide for phytosanitary measures to prevent the introduction, establishment and spread of regulated pests in the Republic; to provide for the control of regulated pests; to provide for regulation of the movement of plants, plant products and other regulated articles into, within and out of the Republic; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

	CHAPTER 1	5
	DEFINITIONS	
1.	Definitions and Interpretations	
	CHAPTER 2	
	ADMINISTRATION	
2.	Responsibility for administration of Act	10
3.	Powers of Minister	
4.	Prescribing of control measures by Minister	
5.	Designation of executive officer	
6.	Powers of executive officer	
7.	Orders with regard to land	15
8.	Powers of entry, search, inspection and seizure with regard to land	
9.	Establishment of National Plant Protection Organisation of South Africa	
10.	Composition of National Plant Protection Organisation of South Africa	
11.	Functions of National Plant Protection Organisation of South Africa	
	CHAPTER 3	20
	IMPORTS	
12.	Regulation of imports	
13.	Import of regulated articles	
	CHAPTER 4	
	EXPORT, RE-EXPORT AND TRANSIT	25
14.	Export of regulated articles	
15.	Re-export	
16.	In-transit	

CHAPTER 5

PEST STATUS AND PHYTOSANITARY PROCEDURES

17.	Declaration of regulated pests	
18.	Compulsory notification of presence of pests	
19.	Declaration of quarantine areas	5
20.	Declaration of pest-free areas, places and sites of production	
21.	Declaration of area of low pest prevalence	

CHAPTER 6

GENERAL PROVISIONS

22.	Assignment of powers	10
23.	Right to appeal	
24.	Appeal Board, composition and membership	
25.	Investigation and consideration by Appeal Board	
26.	Consideration of appeal by Minister	
27.	Preservation of confidentiality	15
28.	Offences and penalties	
29.	Liability of employer	
30.	Regulations	
31.	Compensation	
32.	Assistance and cooperation	20
33.	Limitation of liability	
34.	Provisions binding State	
35.	Application of international agreements	
36.	Transitional provisions	
37.	Repeal of laws	25
38.	Short title and commencement	

SCHEDULE

Act repealed

CHAPTER 1

DEFINITIONS 30

Definitions and Interpretations

- 1.** (1) In this Act, unless the context indicates otherwise—
- “**area of low pest prevalence**” means an area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures; 35
- “**assignee**” means a person or juristic person to whom a power or duty has been assigned by the Minister under section 22(1);
- “**authorised person**” means a person contemplated in section 8(1);
- “**authority**” means, depending on the context— 40
- (a) an authority granted by the Minister under section 5(2); and
 - (b) the Department responsible for agriculture, land reform and rural development;
 - (c) the provincial departments responsible for agriculture, land reform and rural development; and 45
 - (d) municipal entities responsible for agriculture, land reform and rural development;
- “**commodity**” means a type of plant, plant product or other regulated article being moved for trade or other purpose;
- “**consignment**” means a quantity of plants, plant products or other regulated articles being moved from or to the Republic and covered, when required, by a single phytosanitary certificate; 50

- “**consignment in transit**” means a consignment that passes through a country without being imported and that may be subject to phytosanitary measures;
- “**control**” means the suppression, containment or eradication of a pest population;
- “**control measure**” means a control measure prescribed by the Minister under section 4; 5
- “**Convention**” means the International Plant Protection Convention (IPPC), as deposited in 1951 with the Food and Agriculture Organisation (FAO) in Rome and as subsequently amended from time to time, and which was acceded to by the Republic at its 29th Session in November 1997;
- “**conveyance**” means any aircraft, vessel, train, motor car, van, truck, cart or other vehicle, plant or any other regulated article that can act as a pathway for pests; 10
- “**day**” means any calendar day excluding Saturdays, Sundays and public holidays within the Republic;
- “**Department**” means the Department responsible for agriculture, land reform and rural development; 15
- “**emergency measure**” means a phytosanitary measure established as a matter of urgency in a new or unexpected phytosanitary situation, and which may or may not be a provisional measure;
- “**eradication**” means the application of phytosanitary measures to eliminate a pest from an area; 20
- “**establishment**” means the perpetuation, for the foreseeable future, of a pest within an area after entry;
- “**executive officer**” means an officer designated in terms of section 5(1);
- “**export**” means to move, or the transboundary movement of, regulated articles from the Republic to any place outside the Republic; 25
- “**exporter**” means any person who, whether as owner, consignor, agent or broker, is in possession of or in any way entitled to the custody or control of any regulated article to be exported from the Republic;
- “**import**” means to move, or the transboundary movement of, regulated articles into the Republic; 30
- “**importer**” means any person who, whether as owner, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any plant, plant product or regulated article to be imported into the Republic;
- “**infestation**” means the presence in a commodity of a living pest of the plant or plant product concerned, and includes infection; 35
- “**inspection**” means the official visual examination of plants, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary measures;
- “**integrity**” means the composition of a consignment as described by its phytosanitary certificate or other officially acceptable document, maintained without loss, addition 40 or substitution;
- “**introduction**” means the entry of a pest which may result in its establishment;
- “**juristic person**” means any organisation, partnership, corporation, association, joint venture, or other legal entity;
- “**Minister**” means the Minister responsible for agriculture, land reform and rural development; 45
- “**National Plant Protection Organisation of South Africa**” means the organisation designated under section 9 to discharge the functions specified under section 11;
- “**officer**” means an officer or employee as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994); 50
- “**order**” means an order given by the executive officer in terms of section 7;
- “**organ of state**” means—
- (a) any department of state or administration in the national, provincial or local sphere of government; or
 - (b) any other functionary or institution— 55
 - (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public duty in terms of any legislation, but does not include a court or judicial officer;
- “**organism**” means any biotic entity capable of reproduction or replication in its naturally occurring state; 60
- “**pathway**” refers to any means that allows the entry or spread of a pest;

- “**permit**” means any authorisation, issued under this Act, to move plants, plant products or other regulated articles in accordance with phytosanitary measures prescribed by this Act, and includes “phytosanitary certificate” and “import permit”;
- “**pest**” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products; 5
- “**pest-free area**” means an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained;
- “**pest-free place of production**” means a place of production in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained; 10
- “**pest-free production site**” means a defined portion of a place of production in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained for a defined period and that is managed as a separate unit in the same way as a pest-free place of production; 15
- “**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 action**” means an official operation, such as inspection, testing, surveillance or treatment, undertaken to implement phytosanitary measures; 20
- “**phytosanitary certificate**” means an official document that attests to the phytosanitary status of any consignment affected by phytosanitary regulations, patterned after the model certificates of the IPPC;
- “**phytosanitary import requirements**” means specific phytosanitary measures established by an importing country concerning consignments moving into that country; 25
- “**phytosanitary measures**” means those measures, regulations or procedures provided for by this Act having the purpose to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests;
- “**phytosanitary security**”, in relation to a consignment, means the maintenance of integrity and prevention of re-infestation after phytosanitary certification and prior to export; 30
- “**plant**” means any living plant and parts of it, including seeds and germplasm;
- “**plant products**” means any unmanufactured material of plant origin, including grain, and those manufactured products which, by their nature or that of their processing, may create a risk for the introduction and spread of pests; 35
- “**point of entry**” means an airport, seaport or land border point officially designated or prescribed for the importation of consignments, or entrance of passengers;
- “**point of exit**” means an airport, seaport or land border point or a point designated or prescribed for the exportation of consignments, or exit of passengers; 40
- “**prescribed**” means prescribed by any accompanying regulations or control measures;
- “**provisional measure**” means a phytosanitary regulation or procedure established without full technical justification owing to a current lack of adequate information;
- “**quarantine**” means official confinement of regulated articles for observation and research or for further inspection, testing or treatment; 45
- “**quarantine area**” means an area determined by order under section 19(1) within which a quarantine pest is present and is being officially controlled;
- “**quarantine facility**” means an official facility for holding plants or plant products in quarantine;
- “**quarantine pest**” means a pest of potential economic importance to the area endangered thereby and not yet present there or present but not widely distributed and being officially controlled; 50
- “**re-export**” means an imported consignment into the Republic from which it is then exported;
- “**regulated area**” means an area into which, within which or from which plants, plant products and other regulated articles are subjected to phytosanitary measures or procedures in order to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests; 55
- “**regulated article**” means any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved; 60