



ST. HELENA

CHAPTER 93

PLANTS PROTECTION ORDINANCE and Subsidiary Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown
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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 93

PLANTS PROTECTION ORDINANCE

(Ordinances 8 of 1938, 2 of 2001, 7 of 2003 and 19 of 2011)

AN ORDINANCE FOR THE PROTECTION OF PLANTS IN ST. HELENA.

Commencement

[2 November 1938]

Short title

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

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**Agricultural Authority**”² means the person referred to in section 3;
“**Collector of Customs**”³ means the Collector as defined in the Customs Ordinance, Cap. 145, and any customs officer appointed under such Act acting under his directions;
“**exported**” means shipped from St. Helena;
“**exporter**” includes the owner and his agents and servants;
“**goods**” means all kinds of movable property excluding animals;
“**imported**” means brought into St. Helena by any means whatsoever;
“**importer**” includes the owner and his agents and servants;
“**notifiable plant disease**” means any plant disease declared to be a notifiable plant disease under this Ordinance;
“**packages**” means boxes, coverings, wrappers, soil or anything whatsoever in which plants are imported;
“**plant disease**” includes any condition conducive to the deterioration or destruction of any plant or part of a plant whether such deterioration be due to disease, insects or any other cause and whether communicable or not;
“**plants**” include any member of the vegetable kingdom or parts thereof whether living or dead other than canned, candied or other preserved fruits or vegetables.

Agricultural Authority and delegation of powers

3.⁴ (1) For purposes of the administration of this Ordinance, the Agricultural Authority shall be the person appointed by the Governor under section 2A of the Animal (Diseases) Ordinance, Cap. 96.

(2) The functions of the Agricultural Authority may be performed by any other public officer authorised by the Agricultural Authority in that behalf and acting in accordance with such general or special directions as he may give from time to time.

PART I

² Definition of “Agricultural Authority” amended by Ord. 19 of 2011

³ Definition of “Collector of Customs” amended by Ord. 19 of 2011

⁴ Section 3 substituted by Ord. 19 of 2011

IMPORTATION OF PLANTS

Powers of Governor in Council

4.⁵ It shall be lawful for the Governor in Council to make regulations (which regulations may at any time be varied or revoked)—

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

Consequences of importing prohibited plants, etc

5.⁶ (1) Any plant, package or other goods imported in contravention of any prohibition or condition imposed under this Ordinance shall upon importation into St. Helena be forthwith seized and the importer shall be guilty of an offence against this Ordinance.

(2) An officer who seizes any item under subsection (1) shall provide the person from whom it is so seized, or the person who to his knowledge was the owner of such item at the time of such seizure, with a receipt containing at least the following information:

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

(3) A person from whom any item is seized under subsection (1) may, within 21 days of the date of seizure, apply to the Magistrates' Court for such item to be returned to him and the Court shall, after enquiring into the matter—

- (a) order that such item be returned to such person, if the Court is satisfied—
 - (i) that the item was not imported in contravention of any prohibition or condition imposed under this Ordinance; or
 - (ii) in the case of any item imported in contravention of a condition imposed under this Ordinance, that the importation of such item is not prohibited under this Ordinance and such person has provided proof that such item is free from any plant disease and is not likely to be a means of introducing any plant disease into St. Helena; or
- (b) in any other case, order that the item be destroyed.

(4) If no application is made under subsection (3) within the prescribed period with respect to any plant, package or goods, it shall be lawful for the Collector of Customs to cause such item to be destroyed.

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

⁵ Section 4 amended by Ord. 19 of 2011

⁶ Section 5 substituted by Ord. 19 of 2011

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

6. (1) Notwithstanding anything to the contrary contained in the Customs Ordinance, all plants, packages and other goods, the admission of which is conditional, shall upon customs entries being passed by the importer be delivered by the Collector of Customs to the Agricultural Authority who shall within forty-eight hours examine and permit entry after fumigation or disinfection or condemn and destroy should either course, in his opinion, be necessary.

(2) In the event of the importer failing to remove any such plants, packages or other goods within forty-eight hours after receiving notice by the Agricultural Authority to remove such plants, packages or other goods the Agricultural Authority shall be at liberty to order their destruction.

Process of fumigation or disinfection

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

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

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

Power of Agricultural Authority to inspect plants after delivery to importer

9. The Agricultural Authority may specify if he thinks fit the conditions under which any imported plants may be planted out or otherwise disposed of and may direct the importer, who in such case is hereby required to comply with such direction, to keep him informed as to the disposal of any plants after fumigation or disinfection, and he may visit and examine such plants at any time should he deem it necessary to do so.

Imports for scientific purposes

10. Notwithstanding any provision contained in this Ordinance to the contrary, it shall be lawful for the Governor to permit the import of any plant or other material that is certified by the Agricultural Authority to be required for scientific purposes.

PART II
PREVENTION OF PLANT DISEASES

Powers of Governor in Council

11. The Governor may by Order in Council, (which order may be at any time varied or revoked)—

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

Power of entry on lands

12. (1) The Agricultural Authority may with such assistance as may be necessary enter upon any land whatsoever, whether the same shall or shall not have been declared to be infected or suspected of being infected with plant disease, and there examine any plant, article or thing and after notifying the owner or occupier dig up the ground and fell, lop, dig up and take away any suspected or infected plant, article or thing, and do all such other acts and things as may be expedient in order the more effectually to ascertain whether the said land or any plant thereon is infected with plant disease and may search for any plant disease and do any thing or act whatsoever in order to give effect to any order issued under the provisions of this Ordinance.

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

Notice by owner or occupier of existence of notifiable plant disease

13. (1) Every owner or occupier and every person having the charge or management of land who knows or suspects the existence of any notifiable plant disease on the land of which he is owner or occupier or has the charge or management shall with all practicable speed give notice in writing to the Agricultural Authority of the fact of the land or of any plant thereon being so infected or suspected and shall in such notice give all information in his power as to the extent and nature of the disease.

(2) Where the occupier of or the person having the charge or management of land is charged with any act done in contravention of this section he shall be presumed to have known of the existence of the disease, unless and until he shows to the satisfaction of the Court that he had not knowledge thereof, and could not with reasonable diligence have obtained that knowledge.

Power of Agricultural Authority to carry out measures prescribed by orders

14. If the owner or occupier or person having the charge or management of any land fails to carry out any measures required to be carried out by him under any order issued under this Ordinance the Agricultural Authority, or any person authorised by him in writing, may enter on such land and may carry out any measures required to be carried out under the said order and the cost of carrying out any such measures shall be recoverable from such owner, occupier or person as the case may be at the suit of the Agricultural Authority, or any person authorised by him in writing, as a civil debt before the Magistrate.

Decision of Agricultural Authority

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

PART III EXPORTATION OF PLANTS

Powers of Governor in Council

16. It shall be lawful for the Governor in Council to make regulations (which regulations may at any time be varied or revoked)—

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

Process of fumigation or disinfection

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

Expenses of removal, etc. to be recovered from exporter

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

PART IV OFFENCES AND PROCEEDINGS

Offences

19.⁷ (1) If any person without lawful authority or excuse, proof whereof shall lie on him, does any of the following things he shall be guilty of an offence against this Ordinance—

- (a) if he does anything in contravention of this Ordinance or of any regulations or order made under sections 4, 11 and 16 of this Ordinance or disregards the directions under section 9 of this Ordinance;
- (b) if he fails to give any notice which by this Ordinance he is required to give;
- (c) if he refuses to any person acting in execution of this Ordinance or of any order issued thereunder admission to any land or place which the said person is entitled to enter or examine, or obstructs or impedes such person in so entering or examining or otherwise in any respect obstructs or impedes any person in the execution of his duty under this Ordinance or assists in such obstructing or impeding.

(2) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding £5,000, or to imprisonment not exceeding 12 months, or to both.

Penalty

20.⁸ ...

Proceedings in Magistrates' Court

21.⁹ ...

⁷ Section 19 amended by Ord. 19 of 2011

⁸ Section 20 amended by Ord. 2 of 2001 and Ord. 7 of 2003 and repealed by Ord. 19 of 2011

⁹ Section 21 repealed by Ord. 19 of 2011

PLANTS REGULATIONS – SECTIONS 4 AND 16*(Legal Notices 12 of 1938 and 9 of 1963)***Short title**

1. These regulations may be cited as the Plants Regulations.

Prohibition of import of certain plants

2.¹⁰ (1) The importation of any plant, excepting the flowers and seeds thereof, is prohibited unless the same shall be accompanied by a certificate given by a competent authority in the country from which the plant was exported certifying that the plant has been examined and is free from plant disease

(2) In this regulation “competent authority” means any authority or person in the country from which the plant was exported recognized by the Agricultural Authority as competent to give such a certificate.

Potatoes

3. The importation of potatoes (*Solanum tuberosum*) except with the permission of the Agricultural Authority previously obtained is prohibited.

Earth and growing plants

4. The importation of the following articles is prohibited—

- (a) earth or soil;
- (b) plants growing in soil:

Provided that on application being made to him in advance the Agricultural Authority may at his discretion and subject to such conditions as he may specify authorise any person to import plants growing in soil which cannot be imported free from soil.

SEEDS (PROHIBITION OF IMPORTATION) REGULATIONS – SECTION 4*(Legal Notice 3 of 1950)***Short title**

1. These regulations may be cited as the Seeds (Prohibition of Importation) Regulations.

Prohibited seeds

2. The importation into St. Helena of the seeds named in the Schedule to these regulations is hereby prohibited.

¹⁰ Section 2 substituted by L.N. 9/1963

SCHEDULE

<i>Seeds</i>	<i>Country of origin</i>
Sunflower	South America

LILIES DISEASES ORDER – SECTION 11

(Legal Notice 1 of 1951)

Short title

1. This order may be cited as the Lilies Diseases Order in Council.

Notifiable and infectious diseases

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

Mosaic Disease—Virus Disease
Rosette Disease—Virus Disease
Lily Leaf Spot—*Botrytis elliptica*
Eel Worm Disease.

Destruction of diseased plants

3. In the case of any lily or other plant infected with a notifiable plant disease or an infectious plant disease, the Chief Agricultural and Natural Resources Officer¹¹ may order that it be destroyed by uprooting and burning, or that it be sprayed or dusted or otherwise treated with a suitable insecticide.

Duty of owner of diseased plant

4. The owner of the plant shall carry out the order within a period of three days from the giving of the order which may be given either verbally or in writing and in case of non-compliance the Chief Agricultural and Natural Resources Officer¹² shall have power to act in accordance with section 14 of the Ordinance.

¹¹ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Agriculture and Natural Resources

¹² Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Agriculture and Natural Resources