

	<b>PLANT PROTECTION BILL 2020</b>	
	An Act of Parliament to provide for the prevention of introduction, establishment and spread of plant pests.	
	<b>PART I – PRELIMINARY</b>	
	1. This Bill may be cited as the Plant Protection Bill 2020	Short Title
	<p>2. In this Act, unless the context so requires: –</p> <p>“authorization” means the delegation by the Service of some or all of the specified functions under the Act to a competent private or public person for execution on its behalf;</p> <p>“Cabinet Secretary” means the member of Cabinet responsible for matters relating to Agriculture;</p> <p>“consignment” means any quantity of plants, plant part, plant products or other regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate; or any quantity of plants, plant products or other regulated articles being moved from one area to another within the country.</p> <p>“conveyance” means any of the following:</p> <ol style="list-style-type: none"> <li>a. an aircraft;</li> <li>b. a vessel;</li> <li>c. a vehicle;</li> <li>d. a train (including coaches, wagons and railway rolling stock);</li> <li>e. any other means of transport not prescribed by this Act;</li> </ol> <p>“County” means The County Governments as provided for under article 176 and specified in the First Schedule of the Constitution of Kenya 2010.</p> <p>“Managing Director” means the person responsible for managing the day to day affairs of the Service;</p>	Interpretation

	<p>“disinfection” means the process of freeing a plant, plant part, plant product or other regulated articles of pathogens</p> <p>“disinfestation” means freeing a plant, plant part, plant product or other regulated articles from pests</p> <p>“emergency response” means a prompt phytosanitary action undertaken by the Cabinet Secretary in consultation with the Service to prevent, eradicate, contain an imminent new or unexpected phytosanitary situation;</p> <p>“export” means to take out or to cause to be taken out of Kenya by air, land, water or any other means;</p> <p>“false declaration” means description of a plant, plant product or a regulated article to give an inaccurate identity;</p> <p>“infected area” means any area or place in which a disease exists;</p> <p>“infested area” means any area or place in which a pest exists;</p> <p>“infestation” means - presence of a living pest of concern in an area, commodity, conveyance packaging or container;</p> <p>“inspection” means official visual examination of plants, plant part, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary regulations;</p> <p>“inspector” means a person authorized by the Service to discharge its functions prescribed in this Act.</p> <p>“interception (of a consignment)” means the refusal or controlled entry of an imported consignment due to failure to comply with Phytosanitary regulations;</p> <p>“IPPC” means International Plant Protection Convention.</p>	
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	<p>“mis-declared content” means products physically presented but not the same as the description in some or all related consignment documents;</p> <p>“National Plant Protection Organization” means the Service established by the government of Kenya to discharge the functions specified by International Plant Protection Convention;</p> <p>“New pest” means a pest that has not been reported to occur in an area;</p> <p>“Pest of concern” means pest of economic importance in an area;</p> <p>“Transboundary pest” means a pest occurring across the Counties or international boundaries of economic importance;</p> <p>“Pathogen” means a microorganism causing disease;</p> <p>“Pest” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant product;</p> <p>“Phytosanitary certificate” means an official document or its official electronic equivalent consistent with the model certificates of the IPPC attesting that a consignment meets phytosanitary import requirements;</p> <p>“Phytosanitary certificate for re-export” means a phytosanitary certificate issued for a consignment that has been imported into a country from which is then imported into Kenya;</p> <p>“Phytosanitary measure” means any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pest, or limit the economic impact of other regulated non-quarantine pest;</p> <p>“Plants” means living plants and parts thereof including seeds and germplasm;</p>	
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	<p>“Plant products” means unmanufactured materials of plant origin including grain and those manufactured products that by their nature or that of their processing, may create a risk for introduction and spread of pests;</p> <p>“Person” means an individual or a registered entity with legal rights and obligations;</p> <p>“Quarantine” means official confinement of regulated articles, pests or beneficial organism for official inspection, testing, treatment, observation or research;</p> <p>“Other regulated articles” means any plant, plant product storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring, or spreading pest deemed to require phytosanitary measures;</p> <p>“County Executive Committee Member (CECM)” means County Executive Committee Member for the time being responsible for Agriculture as provided for in article 179 (2b) of the Constitution of Kenya 2010;</p> <p>“Regulated Pest” means a quarantine pest or a regulated non-quarantine pest;</p> <p>“The Service” means the Kenya Plant Health Inspectorate Service established by the Kenya Plant Health Inspectorate Service Act No. 54 of 2012;</p> <p>“Un-declared content” means products physically presented but not included in a phytosanitary certificate or a plant import permit;</p> <p>Any term not specifically defined shall have its normally accepted meaning, except that any term which also appears in the IPPC shall be defined by reference to that Convention and its associated documentation.</p>	
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	<p>3. This Act shall apply to the prevention of the introduction, establishment and spread of pests through plants, plant parts, plant products and other regulated articles being stored, moved, propagated, researched, cultivated or growing in the wild for commercial, exports, imports or other purposes and to pest management.</p>	Scope
	<p>4. The object and purpose of the bill is to:</p> <ul style="list-style-type: none"> <li>a) protect domestic agricultural production and environment from introduction and spread of foreign and emerging plant pests;</li> <li>b) provide for the detection, identification, assessment, emergency response and management of risks to plant health and the environment;</li> <li>c) facilitate safe transboundary movement and trade in plants, plant products and other regulated articles;</li> <li>d) provide for pest management including transboundary and migratory pests;</li> <li>e) provide for domestication and implementation of international obligations related to plant health.</li> </ul>	Object and purpose of the Bill
<b>PART II - PREVENTION OF INTRODUCTION OF PLANT PESTS</b>		
	<p>5. (1) The Service shall be the designated National Plant Protection Organization of Kenya for matters related to plant health.</p> <p>(2) The Service shall undertake the following specific responsibilities:</p> <ul style="list-style-type: none"> <li>a) The issuance of certificates relating to the phytosanitary regulations;</li> <li>b) The surveillance of growing plants, including both areas under cultivation and wild flora, and of plants and plant products in storage or in transportation, particularly with the object of establishing and reporting the occurrence, outbreak and spread of pests, and prescribing the phytosanitary measures for prevention of establishment and spread of those pests;</li> </ul>	Designation of the National Plant Protection Organization

	<p>c) The inspection of consignments of plants, plant products and other regulated articles moving in international traffic particularly with the object of preventing the introduction and/or spread of pests;</p> <p>d) Provide for disinfestation or disinfection of plants, plant products and other regulated articles to meet phytosanitary requirements;</p> <p>e) Provide for the designation, maintenance and surveillance of pest free areas and areas of low pest prevalence;</p> <p>f) Conduct pest risk analyses;</p>	
	<p>6. (1) Introduction of pests into the Kenyan territory is prohibited under this Act.</p> <p>(2) A person shall not import a plant, plant product or other regulated article except in the manner provided for under this Act.</p> <p>(3) The Service may prohibit, restrict or regulate the importation of any plants, plant products, used vehicles machinery and equipment and other regulated articles likely to harbor any pest.</p>	Control importation of articles likely to spread pests
	<p>7. (1) The Service shall periodically conduct pest risk analysis to determine conditions for the importation of plants, plant products and other regulated articles.</p> <p>(2) The conditions for the importation of plants, plant products and other regulated articles shall be maintained by the Service in the Plant Import Conditions Register.</p>	Pest risk analysis and import conditions
	<p>8. (1) There is established a committee to be known as the Kenya Plant Health Standing Technical Committee on Imports and Exports.</p> <p>(2) The Cabinet Secretary may by regulations provide for membership and procedures of the conduct of its business and operations.</p>	Establishment of the Kenya Plant Health Standing Technical Committee on Imports and Exports

	<p>9. (1) The Committee shall carry out risk assessment on the introduction of bio-fertilizers, biological control agents, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers and any related products and items to determine import conditions.</p> <p>(2) The committee shall monitor the production and integrity of the bio-fertilizers, biological control agents, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers any related products and items.</p> <p>(3) The committee shall monitor the efficacy of the bio-fertilizers, soil conditioners, bio-stimulants, organic fertilizers any related products and items.</p> <p>(4) All commercial bio-pesticides cleared by the committee shall be processed for registration purposes at the Pest Control Products Board as provided for in the Pest Control Products Act.</p> <p>(5) Without prejudice to sub section (4) above, other commercial products cleared by the committee that are subject to other legislations will be dealt with according to existing regulations.</p>	<p>Functions of the Kenya Plant Health Standing Technical Committee on Imports and Exports</p>
	<p>10. (1) The Service shall maintain a register of all persons who import plants, plant products and other regulated articles.</p> <p>(2) Registration by other competent authorities related to plants, plant products and other regulated articles shall be a prerequisite for registration by the Service.</p>	<p>Nominal roll of importers</p>
	<p>11.(1) Any person who intends to import plants, plant product and other regulated articles shall obtain a Plant Import Permit from the Service.</p> <p>(2) Any person who intends to import bio-fertilizers, biological control agents, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers and any related products and items shall obtain a Biological Import Permit from the Service.</p> <p>(3) Any person who imports or facilitates importation plants, plant</p>	<p>Plant Import permit and Biological Import permits</p>

	<p>products and other regulated articles without a Plant Import Permit as required under this act commits an offence, and if convicted be liable to a fine not exceeding five million Kenya shillings or 20% of the value of the imported consignment whichever is higher or to a term of imprisonment not exceeding two years or both.</p> <p>(4) The Cabinet Secretary shall in consultation with The Service, by regulations, provide for the form, validity, conditions for issuance and the cancellation of Plant Import Permits.</p>	
	<p>12. (1) All imports of plants, plant products and other regulated articles shall be imported through designated points of entry.</p> <p>(2) Any person who imports consignments of plants, plant products and other regulated articles through non designated points of entry commits an offence, and if convicted, be liable to a fine not exceeding one million Kenya shillings or to a term of imprisonment not exceeding six months or both.</p> <p>(3) All persons including courier service operators shall be required to declare any plants, plant products and other regulated articles at points of entry to an inspector.</p> <p>(4) Where a person has failed to comply with subsection (2) and (3) above the Service may intercept the plants, plant products and other regulated articles.</p>	<p>Designated points of Entry and declaration of arrival of a consignment</p>
	<p>13.(1) An inspector shall have access to all conveyances for the purpose of carrying out phytosanitary inspection.</p> <p>(2) A person in charge of a point of entry shall facilitate the inspector access to aircraft, ships, vehicles, rail, pleasure craft and other vessels arriving in Kenya for phytosanitary inspection including inspection of associated waste.</p> <p>(3) Without prejudice to subsection (2) above a person in charge of a point of entry shall assist the inspector in the performance of their</p>	<p>Access to conveyance</p>

	<p>function and exercise of their powers under this Act by providing such facilities and assistance as the Service may require to implement this Act.</p>	
	<p>14.(1) All persons who import plant products and other regulated articles shall ensure the plants are inspected prior to release.</p> <p>(2) A person in charge of a border point shall notify the Service of the arrival of a consignment of a plant, plant product or other regulated article.</p> <p>(3) A person who contravenes the provisions of subsection (1) above commits an offence.</p>	<p>Release of consignments</p>
	<p>15.(1) All plants, plant products and other regulated articles shall be inspected by the Service upon importation at designated points of entry.</p> <p>(2) Where necessary samples may be drawn for testing, to ascertain compliance with import requirements.</p> <p>(3) Where the consignment of plants, plant products and other regulated articles complies with the import requirements, the Service shall release the consignment to the importer, provided that plants, plant products and other regulated articles imported under quarantine shall be further subject to the provisions of section 20.</p> <p>(4) Where the consignment of plants, plant products and other regulated articles fails to comply with the import requirements the Service may order for the treatment and release, the destruction or order the consignment be shipped back to the exporting country at the importer's cost.</p> <p>(5) The Service may hold a consignment at designated points, pending investigation and decision making, for a period not exceeding six months, at the importer's cost.</p> <p>(6) The Service may notify the exporting country the non-compliance in subsection (4) above.</p>	<p>Inspection and testing of imported consignments</p>

	(7) Any person who tampers or removes a consignment held by the Service under subsection (5) commits an offence, and if convicted, be liable to a fine not exceeding five million Kenya shillings or to a term of imprisonment not exceeding two years or both.	
	16.(1) The Service shall accredit and supervise phytosanitary treatment facilities for the purposes of this Act. (2) The Cabinet Secretary may in consultation with the Service by regulation make further provisions for the better carrying into effect of the provisions of this section.	Phytosanitary treatment
	17. Any person who knowingly introduces any pest into the territory of Kenya shall be guilty of an offence and liable upon conviction to a fine not exceeding ten million Kenya shillings or to imprisonment for a term not exceeding six years or both.	Willful introduction of pests
	<b>PART III – PLANT QUARANTINE</b>	
	18.(1) Kenya Plant Health Inspectorate Service Plant Quarantine and Biosecurity Station is the designated plant quarantine station of Kenya. (2) Without prejudice of subsection (1) above, the Service may by gazette notice, designate any of its other substations as plant quarantine stations.	Designation of quarantine Stations
	19.(1) The Service may upon inspection approve other facilities as quarantine facilities or impose quarantine status on a facility. (2) The Service shall define the nature and composition of the quarantine facilities.	Approval of quarantine facilities
	20.(1) Any person who intends to import plants, plant products and other regulated articles under quarantine conditions as prescribed in the plant import permit issued under section 11 (1) shall ensure that the facility intended to hold the imported material is inspected, approved and registered by the Service. (2) Plants, plant products and other regulated articles imported under	Post Entry Quarantine

	<p>subsection (1) shall be transported to the approved quarantine facilities under conditions to be prescribed under regulations.</p> <p>(3) Any plant, plant product and other regulated article in approved quarantine facilities shall be inspected, sampled and tested to ascertain that the material meets the stipulated conditions under the permit.</p> <p>(4) The Service shall order for the release of any plant, plant product and other regulated article from post entry quarantine facility, only if they are found to meet import requirements.</p> <p>(5) The Service shall order for the treatment or destruction of any plant, plant product and other regulated article found to have failed to meet import requirement at the importers cost.</p>	
21.	<p>(1) The CECM may impose domestic quarantine measures to prevent spread of the pest in cases of new pest or pests of concern in a county.</p> <p>(2) The Service in Consultation with CECMs of affected counties may impose domestic quarantine measures in cases of new pest or pests of concern in more than one County to prevent spread of the pest.</p> <p>(3) The Cabinet Secretary in consultation with The Service and affected County Governments may impose domestic quarantine measures in cases of pest emergencies.</p>	Domestic Quarantine
22.	<p>(1) The Service shall control the development and production of high-risk plant material and other regulated articles.</p> <p>(2) The Cabinet Secretary shall in consultation with The Service prescribe guidelines for the development, production, stock piling of high-risk plant material and other regulated articles.</p>	Handling and regulation of high-risk materials
23.	<p>(1) The Service may by gazette notice declare a plant to be a noxious weed.</p> <p>(2) The Service shall maintain and periodically update a list of noxious weeds that are prohibited, restricted from entering Kenya.</p> <p>(3) The Service shall in exercising the provisions this Act make provision</p>	Noxious or invasive weeds

	for prevention of the introduction of noxious weeds into the territory of Kenya.	
	<b>PART IV- PREVENTION OF ESTABLISHMENT, SPREAD AND MANAGEMENT OF PESTS</b>	
	<p>24. For purposes of this part:</p> <p>(1) National Government shall be responsible for:-</p> <p>a) providing policy direction and capacity building of counties and other stakeholders to prevent the establishment and spread of plant pests;</p> <p>b) Establish mechanisms for and coordinate management of transboundary and migratory pest.</p> <p>(2) The Service shall be responsible for: -</p> <p>(a) Advising the Cabinet Secretary on matters relating to plant protection in the country.</p> <p>(b) Prescribing and enforcing phytosanitary measures for the prevention of establishment and spread of plant pests.</p> <p>(3) County Governments shall be responsible for implementation of the National Government policies to the, extent that the policies relate to the county and in particular shall be responsible for: -</p> <p>a) Pest reporting at County level;</p> <p>b) Pest management at County level;</p> <p>c) Enforcing phytosanitary measures prescribed by the Service;</p> <p>d) Capacity building of the producers and other county stakeholders on pest management.</p>	Role of national and County Governments in plant protection.
	<p>25.(1) The Service shall from time to time conduct regular surveillances so as to determine pest status, early detection of new pests to an area, delimiting pest population, pest listing and applicable phytosanitary measures.</p> <p>(2) The County Government may carry out surveillance in their respective Counties to determine pest status</p>	Surveillance

	<p>(3) Without prejudice to subsection (1) and (2), other relevant stakeholders may carry out surveillance in accordance with their respective mandates.</p> <p>(4) The findings of surveillance conducted under subsection (2) and (3) shall be shared with the Service.</p>	
	<p>26.(1) Every occupier or owner of land, researchers and any other person handling plants, plant materials and other regulated articles shall put in place phytosanitary measures for prevention of establishment and spread of pests as provided for in this Act.</p> <p>(2) Any person who fails to comply with subsection (1) commits an offence.</p>	<p>Requirement for prevention and spread of plant pests</p>
	<p>27. (1) Without prejudice to the provisions of Section 26, every occupier or, in the absence of the occupier, every owner of land who knows or has reason to suspect that their plants or land is infected or infested with an unknown pest must:</p> <ul style="list-style-type: none"> <li>a) Notify County agricultural officer or an inspector of the Service on the pest presence or possible occurrence of the pest at the earliest time possible.</li> <li>b) Contain the plants, plant products and other regulated articles or pest where applicable;</li> <li>c) Take all reasonable steps to prevent the spread of the pest; and</li> </ul> <p>(2) Any person who fails to comply with subsection (1) commits an offence and shall upon conviction be liable to pay a fine not exceeding fifty thousand Kenya shillings or to serve imprisonment of a period not exceeding three months or both.</p> <p>(3) Every occupier or, in the absence of the occupier, every owner of land and if necessary owners or occupiers of nearby lands shall be required to take any phytosanitary measures the inspector considers necessary for the eradication, reduction or prevention of the spread of</p>	<p>Duty of an occupier of land</p>

	<p>any pest which an inspector may by notice in writing order him to take, including treatment or the destruction of plants, whether the same are infected with pests or not.</p> <p>(4) In the case of two or more joint occupiers or joint owners, each of them shall be deemed an occupier or owner for the purposes of this section.</p>	
	<p>28. (1) Where an inspector ascertains that the occupier or owner has failed to perform his duty under Section 26 and 27 then the Service shall, in writing, notify the owner or occupier outlining the phytosanitary measures to be undertaken.</p> <p>(2) Where the occupier or owner of land fails to undertake the measures prescribed under subsection (1), the Service may, upon giving notice cause such measures to be undertaken, including treatment or the destruction of a whole crop or part of a crop at the cost of the owner.</p> <p>(3) No order for destruction of plants, plant products and other regulated articles shall be made without prior notification to:-</p> <ul style="list-style-type: none"> <li>a) the CECM; and</li> <li>b) in the case of gazetted protected areas which include ports, military barracks, national parks and forests without approval in writing from the Cabinet Secretary.</li> </ul> <p>(4) The Cabinet Secretary may by regulations make further provisions for the better carrying into effect of the provisions of this section.</p>	Eradication
	<p>29.(1) No person including nursery operators shall cultivate, sell, offer or expose for sale any plant, seed or grain which is likely to spread pests.</p> <p>(2) All nursery operators/ propagation facility operators shall obtain nursery/propagation facility phytosanitary certificate from the Service.</p> <p>(3) Any person who knowingly contravenes subsection (1) and (2) above commits an offence, and if convicted, be liable to a fine not exceeding one million Kenya shillings or to a term of imprisonment not exceeding</p>	Certification of propagation materials

	one year or both.	
	<p>30.(1) There is established a National Plant Health Emergency Response Unit (NPHERU) responsible for dealing with national plant health emergency situations which shall be comprised of relevant institutions and shall be chaired by the Principal Secretary in the Ministry of Agriculture.</p> <p>(2) The County Government in collaboration with the Service may establish a County Plant Health Emergency Response Unit responsible for dealing with county plant health emergency situations which shall be comprised of relevant institutions and shall be chaired by CECM.</p>	Establishment of a National and County Plant Health Emergency Response Unit
	<p>31. (1) The duties of the National Plant Health Emergency Response Unit shall be:-</p> <ul style="list-style-type: none"> <li>a) Develop a national plant health emergency response plan;</li> <li>b) Coordination of implementation of the national plant health emergency response plan;</li> <li>c) Mobilizing of resource for addressing emergencies; and</li> <li>d) Advise the Cabinet Secretary on measures for the eradication and prevention of spread of pests including domestic quarantine</li> </ul> <p>(2) The County Plant Health Emergency Response Unit shall:-</p> <ul style="list-style-type: none"> <li>a) Develop County plant health response plans for pests of concern to the County;</li> <li>b) Implement the National Plant Health Emergency Response strategies outlined by the National Plant Health Emergency Response Unit at the county level and</li> <li>c) Mobilize resource for addressing emergencies.</li> </ul> <p>(3) The Cabinet Secretary may in consultation with the Service and County Governments by regulations provide for membership and procedures of the conduct of its business and operations.</p>	Functions of the National and County Plant Health Emergency Response Unit
	32. (1) All persons shall notify the service of any occurrence of a pest	Declaration of a

	<p>deemed new or pest of national concern in the country for confirmation.</p> <p>(2) The Service shall declare a pest as a new pest or pest of national concern.</p> <p>(3) The CECM shall declare a pest to be of county concern in consultation with the County Plant Health Emergency Response Unit.</p>	<p>new pest or pest of concern</p>
	<p>33.(1) The Service shall, from time to time report and disseminate information regarding the outbreak of pests, regulation of pests and the means for their prevention and control.</p> <p>(2) The service shall make official reports of the occurrence of new pests concurrently with the publishing by any entity.</p> <p>(3) No person shall publish information on new pest occurrence without notifying the Service.</p> <p>(4) The Service shall hold any information shared on new pest occurrence in confidence to safeguard interest of the disclosing party.</p> <p>(5) Any person who publishes the occurrence of new pest without approval by the Service commits an offence.</p>	<p>Pest reporting and new pest reports</p>
	<p>34.(1) The Cabinet Secretary may, for the purpose of preventing the spread of the other regulated pest and in consultation with the Service and County Governments, by an order published in the Gazette:-</p> <ul style="list-style-type: none"> <li>(a) declare an area which is infested with a regulated pest to be an infested area;</li> <li>(b) prohibit the movement, cultivation and harvesting of plants, plant products and other regulated articles to, through or within an infested area or other specified areas;</li> <li>(c) extend, diminish or otherwise alter an infected area; and</li> <li>(d) where it is no longer infested with a regulated pest, revoke the declaration of an infected area.</li> </ul> <p>(2) The Cabinet Secretary may by regulations make further provisions for the better carrying into effect of the provisions of this section.</p>	<p>Restriction of movement, cultivation and harvesting in areas infected with other regulated pests.</p>

	<p>35.(1) The Service in consultation with the County Government and relevant stakeholders shall provide measures for the establishment and maintenance of pest free areas.</p> <p>(2) These measures may include: -</p> <ul style="list-style-type: none"> <li>(a) Pest surveillance</li> <li>(b) Delineation of an area</li> <li>(c) Pest management</li> <li>(d) Monitoring of pests of concern</li> </ul> <p>(3) The Service may notify/publish/declare an area as a pest free area.</p> <p>(4) Where the measures provided in subsection (1) above are not complied with the Service may revoke the pest free status of an area.</p>	<p>Establishment of pest free areas</p>
<p><b>PART V- EXPORT CERTIFICATION</b></p>		
	<p>36. (1) All plant, plant product and other regulated article intended for export shall be subject to inspection and testing by the Service to ensure compliance with the plant health requirements set by the importing country.</p> <p>(2) Without prejudice to subsection (1) above The Service shall undertake certification of plants, plant products and other regulated articles in accordance to national and international standards as may be required by importing countries.</p> <p>(3) Where the plants, plant product and other regulated article intended for export fail to meet the plant health requirements of the importing country, the Service shall restrict from export and may detain and require destruction of the plant, plant product and other regulated article intended for export at the exporters cost.</p>	<p>Power to control exportation of plants, plant products and other regulated articles.</p>
	<p>37.(1) Exporters shall apply to the service to be entered into the nominal roll.</p> <p>(2)The Service shall maintain the nominal register of all exporters, in a manner, as shall be provided for in regulations under this Act.</p>	<p>Nominal roll of exporters</p>

	<p>38.(1) Any person who intends to export plants, plant product and other regulated articles shall obtain a Phytosanitary Certificate from the Service.</p> <p>(2) The Service shall issue a Phytosanitary Certificates of plants, plant products and other regulated articles that have been inspected and found compliant with plant health requirements set by the importing country.</p> <p>(3) The Service shall issue a Phytosanitary Certificate for Re-export where a consignment of plants, plant products and other regulated articles imported into the country and are repackaged or split but the integrity therein is not lost, and the consignment of plants, plant products and other regulated articles is thereafter exported.</p> <p>(4) The Cabinet Secretary shall in consultation with The Service, by regulations, provide for the form, validity, conditions for issuance and the cancellation of Phytosanitary Certificates.</p> <p>(5) Any person who forges, alters, falsifies, or utters knowing it to be forged, any certificate, or any writing or signature required by or provided in this Section, shall be guilty of an offence, and upon conviction, shall be liable to a fine not exceeding two million Kenya shillings or to imprisonment for a term not exceeding three years, or both.</p> <p>(6) Any person who obtains a Phytosanitary Certificate, through false pretense from the Service or falsely represents the Phytosanitary Certificate commits an offence.</p>	Phytosanitary Certificates
	<p>39.The Service shall monitor plants and plant products imported and exported for compliance with national and international requirements for plant protection products residues and heavy metal contaminants.</p>	Plant protection products residues and heavy metal contaminants

<b>PART VI – DIAGNOSTICS</b>		
	40. The service shall establish plant health laboratories for the undertaking of its functions under this Act.	Establishment of laboratories
	41. (1) The Service plant health laboratories shall be the designated plant health laboratories of Kenya to undertake analysis, testing, and diagnosis for the performance of its functions under this Act. (2) Official confirmation of the presence of regulated pests shall be based on diagnosis performed by the designated plant health laboratories.	Designation of laboratories
	42. (1) For the purposes of this Act, the Service may authorize public and private persons to undertake diagnostic and/ or analytical services on behalf of the Service. (2) The person authorized in subsection (1) shall provide upon request all relevant information related to diagnostic activities. (3) The Cabinet Secretary may in consultation with The Service, by regulations provide for the qualification and procedure for authorization of persons.	Authorization of persons to undertake plant health diagnostics
<b>PART VII- INSPECTORS</b>		
	43. (1) The Service shall appoint qualified persons to be Service inspectors for the purposes of this Act. (2) The Service may authorize competent private or public persons to perform specified functions under this Act on its behalf. (3) The Service shall gazette inspectors appointed under subsection (1) and (2). (4) The County Governments shall appoint and gazette qualified persons to be County inspectors for the purposes of this Act. (5) The Cabinet Secretary shall by Regulation provide for qualification of inspectors (6) The Cabinet Secretary may by Regulation provide for instruments of	Appointment and Authorization of inspectors

	authorization.	
	<p>44. An inspector may for the purposes of enforcing any provision of this Act, at all reasonable times and upon producing his identification: -</p> <ul style="list-style-type: none"> <li>a) enter any place or premises at which there is, or is suspected to be a plant, plant products or other regulated articles to which this Act applies;</li> <li>b) inspect and take samples of any plants, plant products or other regulated articles to which this Act applies;</li> <li>c) inspect any process or other operation which is or appears likely to be carried out in those premises in connection with the manufacture, production, processing or treatment of plant products and other regulated articles;</li> <li>d) open any package found in any place or premises that the inspector has reason to believe contains plants, plant products and other regulated articles;</li> <li>e) require any person to produce for inspection, examination or for the purpose of obtaining copies, documentation concerning any matter relevant to the administration of this Act;</li> <li>f) stop and search any person, baggage, packaging, conveyance upon entry into, movement within or exit from the country;</li> <li>g) stop the distribution, sale or use of any plants, plant products or other regulated articles which the inspector has reason to believe is harbouring a regulated pest;</li> <li>h) seize, destroy, detain, treat or otherwise dispose of any plants, plant products or other regulated articles, or order that such action be taken which the inspector has reason to believe is harboring a regulated pest;</li> <li>i) seal off any place, premises or conveyance which the plants, plant products or other regulated articles are found or</li> </ul>	Powers and functions of an inspector

	<p>manufactured, which the inspector reasonably believes are infested / infected with pests;</p> <p>j) inspect any consignments of plants, plant products and other regulated articles moving in international traffic particularly with the objective of preventing the introduction and or spread of pests in Kenya;</p> <p>k) confine, seal and order immediate treatment of consignments of plants, plant products and other regulated articles with the objective of preventing the introduction and or spread of pests; and</p> <p>l) take any other reasonable and necessary measures in the exercise of the powers outlined above.</p>	
	<p>45. Any person who:-</p> <p>(a) gives false information to an inspector;</p> <p>(b) obstructs, hinders, interferes with, refuses to furnish information, fails to produce any document or fails to comply with any lawful order given by any inspector in execution of his powers or duties under this Act;</p> <p>(c) otherwise contravenes any other provisions in this Act shall be guilty of an offence, and upon conviction, shall be liable to a fine not exceeding one million Kenya shillings or to imprisonment for a term not exceeding two years, or both.</p>	<p>Obstruction of inspectors</p>
	<p><b>PART VIII- KENYA PLANT HEALTH PROTECTION FUND</b></p>	
	<p>46.(1) There is established a Fund to be known as the Kenya Plant Health protection fund.</p> <p>(2) There shall be paid into the fund</p> <p>(a) Allocation by the National Treasury to mitigate phytosanitary emergencies</p> <p>(b) percentage of monies paid to the Service as license fees,</p>	<p>Establishment of National Plant Health Protection fund</p>

	<p>commission, export or import fees and fees that may accrue to or vest in the Service in the course of exercise of its functions under the Act;</p> <p>(c) Funds from national and international donors and</p> <p>(d) funds from any other lawful source approved by the Trustees</p> <p>(3) There shall be paid out of the Fund—</p> <p>a) expenditures in mitigating phytosanitary emergencies in the country;</p> <p>b) Expenditure on surveillance and early warning systems for emergency situations;</p> <p>c) Expenditure on training and capacity building;</p> <p>d) Expenditure of the National Plant Health Emergency Response Unit and KPHSTCIE; and</p> <p>e) Expenditure for phytosanitary investigation.</p> <p>(4) The Fund shall be administered by board of trustees constituted by the Service.</p>	
	<p>47. (1) There is established a Fund to be known as the County Plant Health protection fund.</p> <p>(2) There shall be paid into the fund</p> <p>(a) Allocation by the County Government to mitigate phytosanitary emergencies at County level;</p> <p>(b) Funds from donors and</p> <p>(c) funds from any other lawful sources.</p> <p>(3) There shall be paid out of the Fund—</p> <p>f) expenditures in mitigating phytosanitary emergencies in the County;</p> <p>g) Expenditure on surveillance and early warning systems;</p> <p>h) Expenditure on training and capacity building and</p> <p>i) Expenditure of the County Plant Health Emergency Response</p>	<p>Establishment of County Plant Health Protection fund</p>

	Unit.	
	<b>PART IX- MISCELLANEOUS PROVISIONS</b>	
	<p>48.(1) The Cabinet Secretary may, by a notice in the Gazette, impose a fee to be charged on any services offered by the Service.</p> <p>(2) The Cabinet Secretary may, upon the advice of the Service, at any time by notice, alter the rate of the fees charged under subsection (1) and such altered rate shall come into force on such date, not being less than two months from the date of the notice, as may be specified in the notice.</p> <p>(3) Different rates of fees may be imposed for different services.</p> <p>(4) Any fees chargeable under this section shall be collected in the manner prescribed.</p>	General power to charge fees
	49. Any person convicted of an offence under the Act for which no penalty is provided shall, be liable, upon conviction to a fine not exceeding two million Kenya shillings or to a term not exceeding two years, or both	General penalties
	<p>50. In case of a dispute arising during implementation of this Act the parties shall;</p> <p>a) Engage the Services of arbitrator</p> <p>b) The decision of the arbitrator shall be final</p>	Dispute resolution
	<p>51.(1) No inspector, officer or agent of the Service shall be personally liable for the official decisions made in good faith in executing the provisions of this Act.</p> <p>(2) No suit, prosecution or other legal proceeding shall lie against any inspector or his assistant for anything done in good faith and without negligence done under this Act.</p>	Personal Liability
	52. The Service may in the course of implementing the provisions in this Act undertake phytosanitary investigations for the purpose of making scientific-based phytosanitary regulatory decisions.	Phytosanitary Investigation
	53. (1) The Cabinet Secretary may in consultation with the Service and	Regulations

County Governments make regulations for the better carrying into effect the provisions and for prescribing anything which needs to be prescribed under this Act.

(2) Without prejudice to the generality of the foregoing, the regulations made under this may provide for;

- a) the prevention of introduction of plant pests;
- b) Pest Risk Analysis and import conditions;
- c) the form, validity, conditions for issuance and the cancellation of Plant Import Permits and Phytosanitary Certificates;
- d) the Post entry quarantine processes and approval and certification of Post entry quarantine facilities;
- e) the establishment of the Kenya Plant Health Standing Technical Committee on Imports and Exports, membership, procedures of the conduct of the business and its operations;
- f) the restriction of movement, cultivation and harvesting in areas infested with regulated pests;
- g) pest eradication;
- h) the registration of exporters;
- i) the establishment, membership of a National Plant Health Emergency Response Unit and County Plant Health Emergency Response Units and procedures of the conduct of its business and operations;
- j) the power to detain, destroy, intercept due to non-compliance;
- k) the designation of laboratories and authorization of persons;
- l) the powers, obligations and duties of inspectors;
- m) Set the qualifications of inspector
- n) the dispute resolution mechanisms.
- o) Provide for membership and administration of Kenya Plant Protection Fund.

	<p>54.(1) The Plant Protection Act (CAP 324) is hereby repealed.</p> <p>(2) Any regulations which were existing under the repealed Act in subsection (1) shall remain in force until the regulations under this Act come into force.</p>	<p>Repeal and savings</p>
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