

PLANT PROTECTION

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Interpretation
3. Inspectors
4. Duties of owners of land
5. Powers of inspectors
6. Owners to provide access and facilities to inspectors
7. Appeals
8. Sale by nurserymen of plants infested with a pest
9. Compensation
10. Limitation of action against Government
11. Offences
12. Regulations

PLANT PROTECTION

11 of 1969

An Act to provide for the eradication of pests and diseases destructive to plants to prevent the introduction and spread of pests and diseases destructive to plants, and for matters connected therewith and incidental thereto

*Short title and
Commencement*

1. This Act may be cited as the Plant Protection Act.

Interpretation

2. (1) In this Act, unless the context otherwise requires---

“board of inquiry” means a board of inquiry appointed under section 7;

“container” means any case, package, pot, sack or other thing used as a container and includes any covering, wrapping or packing material;

“disease” means any abnormal condition of a plant, communicable or believed to be communicable by the transfer of a causative agent or by the propagation of an affected plant;

“growing medium” means a medium, including soil, capable of being used for the propagation or culture of plants;

“host plant” means a plant capable of being the host of a pest;

“infested area” means any area or place in which a pest exists;

“injurious organism” means any organism or like agent including a virus which is -----

- (a) inimical to the growth or existence of living plants;
- (b) injurious to plants or plant products; or
- (c) capable of producing a disease;

“inspector” means a person authorized in writing by the Minister to exercise the powers or perform the duties of an inspector under this Act;

“invertebrate” means a living invertebrate animal organism in whatever stage of development it may be;

“nursery” means land or premises where nursery stock is grown or cultivated;

“nurseryman” means the owner or other person responsible for the management of a nursery;

“nursery stock” means woody perennial plants grown or cultivated for the purpose of trade;

“owner” in relation to land or premises includes a joint owner, part owner, lessee or occupier, or the agent of such owner, joint owner, part owner, lessee or occupier;

“pest” means an injurious organism which has been declared to be a pest under subsection (2);

“phytosanitary certificate” means a certificate issued by an officer of the plant protection service of Malawi, or of any other country concerned, as to the health of a plant or a growing medium;

“plant” means any member of the vegetable kingdom, whether living or dead, and includes any part of a plant, or the fruit or flowers thereof, whether severed therefrom or not, and any unmanufactured plant product;

“quarantine area” means an area declared to be a quarantine area under this Act;

“vehicle” includes an aircraft or a railway train.

2. For the purposes of this Act, the Minister may, by notice, declare any injurious organism to be a pest either generally or in respect of a particular type of plant and either with a view to its control or the prevention of its introduction or spread, or for some other purpose.

Inspectors

3. (1) The Minister may, in writing, authorize any person to exercise the powers or perform the duties of an inspector under this Act, or such of them as shall be specified in such written authorization.

(2) Every inspector shall, in the exercise of his powers or the performance of his duties under this Act, comply with any directions or instructions which the Minister may from time to time issue for the purposes of this Act.

Duties of owners of land

4. (1) An owner of land or premises shall take all measures prescribed or required by or under this Act, and such additional or alternative measures as are reasonably necessary for the eradication, reduction or

prevention of the spread of a pest or disease which an inspector may, in accordance with the provisions of this Act, in writing order him to take.

(2) If an owner of land or premises fails or neglects to take all or any of the measures which he is required to take in accordance with this section, an inspector may –

on giving the owner not less than seven days' notice in writing of his intention so to do, cause the measures to be taken;

if he is satisfied that the measures must be taken without delay, cause the measures to be taken immediately without giving the notice referred to in paragraph (a)

(3) An owner of land or premises shall, without prejudice to any other penalty incurred by reason of his failure or neglect to take the measures which he is required to take in accordance with subsection (1), be liable to pay the costs incurred by the inspector in respect of the measures he causes to be taken in accordance with subsection (2), which shall be recoverable as a debt due to the Government.

5. (1) An inspector may, in the performance of his functions under this Act, and upon production of his written authorization by the Minister, if demanded –

*Powers
of
inspectors*

at all reasonable times enter upon and inspect any land, premises, buildings, vehicles or vessels on or in which growing media or plants may be found, or on or in which he reasonably suspects that a pest may be found;

inspect any growing media, and plants, and for the purpose of detecting pests, expose the roots of any plant, remove bark or cut any plant or open any container which he believes to contain growing media or plants liable to harbor a pest;

order the taking of measures which are prescribed or are reasonably necessary for the eradication or prevention of a pest;

declare any plants, growing media or containers to be infested with a pest;

order the destruction at any time of any host plants or any plants declared by him to be infested with a pest, or any plant which is growing on land or in any growing media contrary to the provisions of this Act or any regulations made thereunder;

if he reasonably suspects the presence of a pest on land, premises or in a building, declare the area in which the land, premises or building is situated to be an infested area, and in writing prohibit for a period not exceeding fourteen days, the removal from the land, premises or building of growing media, plants, containers or other things whatsoever capable of spreading a pest;

subject to the provisions of subsection (2), order the seizure, detention and destruction without compensation of any imported growing medium or plant or injurious organism or invertebrate, together with the container thereof-

(i) which is imported in contravention of the provisions of this Act or any regulations made thereunder;

(ii) which is imported otherwise than in accordance with the conditions of a permit to import issued under this Act or any regulations made thereunder;

(iii) which is not at the time of importation accompanied by such a certificate of origin, phytosanitary certificate, or other document as may be prescribed or which is accompanied by such a certificate or other document which is incorrect in a material particular.

(2) Where an importer or owner of a growing medium or plant or other thing which has been the subject of an order of destruction under this section, other than a growing medium or plant which has been declared by an inspector to be infested with a pest, gives notice of his intention to appeal in accordance with section 7 the order of destruction shall not take effect unless and until the period specified for lodging notice of appeal is dismissed, withdrawn or abandoned.

6. An owner of land, premises, a building, vehicle or vessel, or of a growing medium or plant, and the agent of such owner, shall afford an inspector access thereto and shall give such information and provide such labor and facilities as the inspector may require for the purposes of carrying out an inspection under this Act.

*Owners to provide
access and
facilities to
inspectors*

7. (1) Subject to the provisions of subsection (2), the importer or owner of a growing medium or plant or other thing, the destruction of which has been ordered in accordance with the provisions of this Act may, within seven days of the date of the order, lodge with the

Appeals

Minister a notice of appeal against the order: -

Provided that there shall be no right of appeal in respect of –

an order for the destruction of a growing medium or plant declared by an inspector to be infested with a pest; or
an order of destruction made under Section 5 (1) (e).

(2) A notice of appeal shall be in writing and shall specify the grounds of the appeal.

(3) The Minister may, after such inquiries as he considers necessary thereupon determine the appeal himself or may if he considers it desirable refer the appeal to a board of inquiry appointed by him in accordance with the provisions of this section.

(4) A board of inquiry for the purposes of this section shall consist of three members appointed by the Minister of whom –

one member, who shall be the chairman, shall be a legal practitioner; and

not less than two members shall be persons who are not public officers.

(5) The powers, rights and privileges of a board of inquiry shall be the same as those conferred upon commissioners by the Commissions of Inquiry Act and the provisions of section 9 to 13 of that Act shall *mutatis mutandis* apply in relation to the proceedings of a board of inquiry appointed under this section and to a person summoned to give evidence or giving evidence before a board of inquiry.

(6) The board of inquiry shall as soon as possible report its findings and make recommendations in writing to the Minister who shall thereupon determine the appeal giving due consideration to the findings and recommendations of the board of inquiry.

(7) If a board of inquiry recommends that an appeal be dismissed it may also recommend that the appellant pay to the Government the costs incurred by the Government in connection with the appeal or may make such other recommendations as it considers appropriate, and the Minister in determining the appeal may give effect to such recommendations.

(8) Any determination by the Minister shall be final and shall not be questioned in any court and any order by the Minister that the

appellant shall pay any of the costs of the Government in connection with the appeal shall constitute a debt owing by the appellant to the Government which may be used for in any court.

(9) Members of a board of inquiry who are not public officers shall be paid, out of moneys appropriated for the purpose by Parliament, such remuneration as the Minister may prescribe.

(10) All members of a board of inquiry shall be paid, out of moneys appropriated for the purpose by Parliament, such allowances to meet the reasonable expenses incurred by them in connection with an appeal as the Minister may prescribe.

8. If within three days of the delivery to him of plants sold by a nurseryman, the purchaser of the plants finds that they are infested with an injurious organism he may return the plants to and at the expense of the nurseryman and shall thereupon be freed from the liability to pay for them, or if he has paid for them he may recover the purchase price.

Sale by nurserymen of plants infested with an injurious organism

9. (1) Subject to the provisions of this Act, the Minister may, out of moneys appropriated for the purpose by Parliament, pay compensation to the owner of a growing medium or plant destroyed under the powers conferred by this Act.

Compensation

(2) If the owner of the growing medium or plant so requires, the Minister may appoint two assessors, one of whom shall be nominated by the owner, to assist him in assessing the amount of compensation payable.

10. No claim shall lie against the Government, the Minister, the Permanent Secretary, an inspector or any other servant or agent of the Government for anything done in good faith under the powers conferred by this Act.

Limitation of action against Government

11. (1) A person who –

Offences

wilfully resists, obstructs, impedes or hinders an inspector in the exercise of his powers or the performance of his duties under this Act or any regulations made thereunder;

contravenes or fails to comply with any of the provisions of this

Act or of any regulations made thereunder or of any order or direction made or given under this Act, or of any regulations made thereunder, with which it is his duty to comply; or

without reasonable cause contravenes or fails to comply with any of the conditions of a permit or other document issued in accordance with this Act or of any regulations made thereunder; or

maliciously introduces a pest on to land or premises in Malawi; or

on being required to do so fails or refuses to produce to an inspector a permit, certificate or other documents which he is required to have in accordance with this Act, or any regulations made thereunder; or

fails or refuses without reasonable cause to give information to an inspector when required to do so in accordance with this Act or knowingly gives false or incomplete information; or

for the purpose of obtaining, whether for himself or any other person, the issue of a permit, certificate or other document makes a declaration or statement which he knows to be false in any particular or does not know or believe to be true or knowingly makes use of a declaration, statement or document containing the same;

shall be guilty of an offence and liable –

- (i) for an offence under paragraph (d), to a fine of four hundred pounds and to imprisonment for four years
- (ii) for any other offence, to a fine of one hundred pounds and to imprisonment for six months.

(2) An inspector may seize and detain, and may order the destruction without compensation of, a growing medium, plant or other thing whatsoever which is removed from an infested or quarantine area in contravention of the provisions of this Act or an order made in accordance with the provision of this Act.

(3) The confiscation or destruction of a growing medium, plant or other thing in accordance with subsection (2) shall not free the person responsible for its illegal removal from liability to prosecution.

12. (1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and without

prejudice to the generality of the foregoing such regulations may provide for –

Regulations the form of and the fees payable in respect of any permits or certificates or other documents required under this Act, and the manner of applications to be made in respect thereof;

the issue of, the duration of, the cancellation, surrender or amendment of, and the conditions which may be attached to, any permit, certificate or other document required under this Act;

the regulation, prohibition, restriction or control of the import or export of any plant, or class of plant or any growing medium, invertebrate, pest or other injurious organism;

the disinfection, treatment, destruction or disposal of pests, or plants infested or appearing to be infested with a pest, or anything whatever, whether similar in nature to a plant or not, which is liable to infest a plant with a pest;

the prohibition, restriction and regulation of the removal, transport or export of pests, growing media or plants;

the control and destruction of any plant infested with a pest;

the prohibition, restriction and regulation of the cultivation and harvesting of plants if a pest cannot otherwise be readily or adequately controlled or eradicated;

the control and destruction of host plants not under cultivation for the current season's crop;

the reporting of the occurrence of a pest and the collection and transmission of specimens of a pest;

the methods of planting, cleaning, cultivating and harvesting to be adopted and the precautions and measures, including the destruction of plants, to be taken by an owner of land for the purpose of eradicating a pest or of preventing or controlling attacks by or the spread of a pest;

the destruction after harvest of a particular kind of plant by a specified date;

the disinfection, fumigation or other treatment of any land, building, vehicle or vessel used for the storage or conveyance of any

plant, agricultural produce or anything else whatever likely to infest a plant with a pest;

the declaration of areas infested with a pest as infested areas and of areas around infested areas as quarantine areas;

the registration and inspection of nurseries, the regulation of the sale or removal of plants from nurseries and the regulation of the sale of nursery stock;

the payment and recovery of fees for any services carried out by an inspector under this Act;

the detention and inspection before importation and exportation of growing media and plants and their containers, and the grant of phytosanitary certificates in accordance with such inspection;

the disinfection, fumigation or treatment of imported growing media and plants and their containers;

the immediate destruction, without compensation, of imported growing media and plants which, on inspection, appear to be infested with a pest or an injurious organism;

the immediate destruction, without compensation, of an imported invertebrate if, in the opinion of an inspector, the invertebrate might be a potential danger to agriculture;

the prohibition of the importation of growing media, invertebrates and plants except by specified ports or places of entry and routes and by specified methods of transport;

the detention of imported growing media, invertebrates and plants for observation and the precautions to be taken during detention;

the imposition and recovery of fees for sorting, disinfecting, fumigating or treating growing media and plants on importation;

the disposal of imported growing media and plants in respect of which prescribed fees are not paid and of the proceeds, if any, resulting from their disposal;

the issue of permits as a pre-requisite to the importation of growing media, injurious organisms, invertebrates and plants;

the production of phytosanitary certificates signed by responsible

persons or authorities in the country or territory of origin relating generally or specifically to –

(i) the freedom of imported growing media, invertebrates and plants, or the area in which they were produced or grown, from injurious organisms; and

(ii) the treatment of imported growing media and plants before dispatch from their place of origin;

the production of certificates of origin of imported growing media, injurious organisms, invertebrates and plants and for the furnishing by the importer of particulars relating to imported growing media, injurious organisms, invertebrates and plants.

SUBSIDIARY LEGISLATION

PLANT PROTECTION (EXPORT) REGULATIONS

Under s. 12

1. These Regulations may be cited as the Plant Protection (Export) Regulations.

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

*G.N.
106/1969*

“phytosanitary certificate” means a statement in the form in the Schedule hereto issued by an inspector certifying that he has, before

32/1982

dispatch, thoroughly examined the plants to which the statement relates, or a representative sample thereof, and found the plants or sample to be substantially free from any pest or disease.

Citation

3. (1) These Regulations shall apply to the export of all plants except tung oil, tea, cotton lint, coffee, cut flowers, fresh fruit and vegetables.

Interpretation

(2) These Regulations shall not apply to any consignment of plants imported in any vehicle, aircraft or vessel and then exported in such vehicle, aircraft or vessel without at any time having been unloaded therefrom, or to anything in transit through Malawi which is consigned by a method approved by the Permanent Secretary or which has been transshipped for re-export within seven days of their arrival in Malawi.

Application

4. (1) Save as is provided in regulation 3 (1) no person shall export or cause to be exported any plants from Malawi without having applied for and obtained a phytosanitary certificate relating to such plants.

(2) A fee of K5 shall accompany every application for a certificate.

*Phytosanitary
Certificate
G.N.
32/1982*

5. (1) Upon receiving an application for a phytosanitary certificate, an inspector shall order that the plants shall be made available for his inspection at a place specified by him and he shall thereupon examine the plants to which the application relates or a representative sample of such plants and he may give such orders as he considers necessary for the disinfection, fumigation and treatment of the plants and of the vehicle, aircraft or vessel in which the plants are to be exported.

(2) When an inspector is satisfied that the orders, if any, given by him under subregulation (1) have been complied with in relation to the plants or vehicle, aircraft or vessel in which the plants are to be exported, he shall issue a phytosanitary certificate in accordance with the result of his examination.

*Powers
of
inspector*

(3) In giving any order under the provisions of subregulation (1) an inspector may order that only a specific chemical shall be used for fumigation or other treatment, and that such chemical shall be applied at such concentration and by such means as he may direct.

SCHEDULE

MALAWI GOVERNMENT

PLANT PROTECTION ACT

(CAP. 64:01)

PHYTOSANITARY CERTIFICATE

THIS IS TO CERTIFY

that the plants, parts of plants products described below or representative samples of them were thoroughly examined on (date)..... By (name) an authorized officer of the plant protection service and were found to the best of his knowledge to be substantially free from injurious diseases and pests; and that the consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in the additional declaration hereon and otherwise.

Fumigation or disinfection treatment (if required by importing country):-

Date:..... Treatment:.....

Duration of exposure:.....

Chemical and Concentration:.....

ADDITIONAL DECLARATION

....., 19.....

(Signature)

(Stamp) (Rank)

Description of the Consignment

Name and address of exporter

Name and address of consignee

Number and description of packages

Distinguishing marks

Origin (if required by importing country)

Means of conveyance

Point of entry

Quantity and name of produce

Botanical name (if required by importing country)

PLANT PROTECTION (IMPORT) REGULATIONS

Under s. 12

1. These Regulations may be cited as the Plant Protection (Import) Regulations.

2. In these Regulations unless the context otherwise requires –

“eastern Africa” means Kenya, Uganda and Tanzania;

Citation

“forest tree” means any tree which is commonly grown for the production of timber and not solely for ornamental purposes;

Interpretations

“form” means the appropriate form prescribed in the Schedule to these regulations;

“palm” means any plant belonging to the natural order “palmates”

“permit” means a permit in form No. 2 in the Third Schedule.

“phytosanitary certificate” means a certificate issued by a component authority in the exporting country which is substantially the same as form No. 3 in the Third Schedule and which certifies that the plants or a representative sample thereof to which the certificate relates have been examined and found to be substantially free from any pest or disease;

“protective treatment” means the sorting, disinfecting, fumigation or other treatment or quarantine of growing media, plants or containers in terms of these Regulations and cognate expressions shall be construed accordingly;

“quarantine” means the detention and culture of plants in isolation under the supervision of the Ministry under such conditions, at such place and for such period as the Permanent Secretary may determine;

“soil” means a growing medium which is neither sterile nor inert;

“southern Africa” means Angola, Botswana, Lesotho, Malawi, Mozambique, Rhodesia, South Africa, Swaziland and Zambia;

“submit” in relation to a permit or a phytosanitary or other certificate relating to a consignment of growing media, injurious organisms, invertebrates or plants, means the submission of the permit or certificate to an inspector at the place of inspection or port of entry of the consignment, and cognate expressions shall be construed accordingly;

“vegetable” means a herbaceous plant, grown for human consumption in whole or in part, but does not include cereals, fodder crops, culinary herbs, spices and soft fruits;

“vegetative material” means

(a) any growing plant; or

(b) any part of a plant, other than the seed,

which can be used for and is intended to propagate the plant, and includes budwood, cuttings, fruits, grafts, rooted material, suckers, bulbs, bulbils, corms, rhizomes and tubers.

3. The provisions of these Regulations shall not apply to anything in transit through Malawi which is consigned by a method approved by the Permanent Secretary or which have been transshipped for re-export within seven days of their arrival in Malawi.

Goods in transit

4. (1) Save as is otherwise provided, no person shall import vegetative material, mushroom or other fungal spawn, seeds or any unmanufactured plant product, or any rooting compost, soil or other growing media, unless a permit authorizing such importation is submitted.

Permit to import

(2) No person shall import any live insect or other invertebrate, or any plant pathogen unless a permit authorizing such importation is submitted.

5. (1) Where a permit in terms of regulation 4 has been issued but stipulates that certain conditions must be fulfilled, an inspector may refuse to allow the import unless he is satisfied that these conditions have been fulfilled or are capable of being fulfilled.

Permit subject to conditions

(2) Where a condition of import is that the plants shall be accompanied by a phytosanitary certificate such certificate shall be substantially the same as form No. 3 in the Third Schedule hereto.

Application for permit

6. (1) Application for a permit to import any item indicated in regulation 4 shall be made to the Permanent Secretary and, if the Permanent Secretary so requires, shall be made in form 1, in the Third Schedule hereto.

(2) The Permanent Secretary may –

(i) issue a permit;

(ii) refuse to issue a permit; or

(iii) cancel, suspend or amend any permit which has been issued.

7. Subject to the provisions of these regulations, no permit shall be required for the importation of –

cured tobacco of the previous season's crop from Rhodesia or Zambia;

cut flowers intended for ornament;

Exemption from permits fruit, other than citrus fruit and tomatoes, from Mozambique, Rhodesia, South Africa or Zambia;

grains and pulses produced in Africa intended for human consumption;

plants, or parts of plants, carried by travelers by road or rail and intended for consumption as food in the journey;

seeds of ornamental flowering plants, excluding trees and shrubs, other than *Althaea*, *Berberis*, *Helianthus*, *Hibiscus*, *Hollyhock*, *Malva*, *Nicotiana* and *Pyrethrum*;

seeds of vegetables other than those of aubergine (egg plant, brinjal), benas, *Capsicum* (green peppers or chillies), lettuce, pea, *Physalis* (Cape gooseberry) and tomato;

vegetables, except potatoes and tomatoes, from Mozambique, Rhodesia, South Africa or Zambia;

a plant, other than citrus or grape vines, produced in a nursery approved by the Permanent Secretary.

8. Subject to the provisions of these Regulations an inspector may –

cause any vehicle known to have brought or suspected of having brought a pest or disease or plant known or suspected of being infested with a pest or disease into Malawi, to be protectively treated;

detain for inspection any growing medium, plant or container on importation;

Powers of inspector cause any growing medium, plant or container detained in terms of paragraph (b) to be protectively treated whether or not the growing medium, plant or container is diseased or infested with a pest;

cause any imported growing medium or plant which appears to be diseased or infested with a pest listed in the Second Schedule hereto, or with any other pest or disease which, in the opinion of the inspector is of a particularly dangerous nature, and any other plant in the same container, to be destroyed immediately.

9. Unless the Permanent Secretary otherwise directs, the protective treatment of any imported growing medium, plant or container shall be carried out on Government premises.

10. (1) No person shall import –

any plant packed in soil which is not the product of a nursery approved by the Permanent Secretary and bears a label certifying such origin;

fresh fruits from Asia or the Pacific Islands;

Treatment

any plant or part of a plant specified in the First Schedule hereto;

any grain, pulse or similar produce unless it is accompanied by a phytosanitary certificate stating that it has been fumigated in an approved manner not more than fourteen days prior to entry into Malawi;

Restrictions on imports

rooted vegetative material of any plant, unless it is certified as having been rooted in a sterile medium, from any country outside eastern and southern Africa;

vegetative material of any plant species or cultivar from any country outside eastern and southern Africa;

without the consent in writing of the Minister.

(2) The Minister shall not give his consent to the importation of any plant or part of a plant mentioned in subregulation (1) (a) (b) (c) (e) (f) unless he is satisfied that the importation is made –

- (i) for scientific purposes; or
- (ii) because the plant cannot be grown from seed; and

under the direct supervision of the Ministry.

FIRST SCHEDULE

PLANTS AND PARTS OF PLANTS THE IMPORTATION OF WHICH IS PROHIBITED WITHOUT THE SPECIAL WRITTEN AUTHORITY OF THE MINISTER

1. *Acacia* species, vegetative material from countries outside Africa.
2. Banana from countries other than eastern Africa, Mozambique, Rhodesia, South Africa and Zambia.
3. Beans, *Phaseolus* species, vegetative materials from all countries and seeds from Australia, eastern Europe, Mexico and the United States of America.

4. *Capsicum* species, all parts except seed.
5. Cereals, small, such as barley, oats, rice, rye and wheat, all parts except seed.
6. Chestnut, and all other species of *Castanea*, all parts except seed, from countries other than eastern and southern Africa.
7. *Crysanthemum*, all parts except seed.
8. *Citrus*, rooted vegetative material from all countries except Rhodesia and Zambia.
9. Clover (*Trifolium* species), including shamrock, all parts except seed and ornamental foliage.
10. Cocoa (*Theobroma cacao*), all parts.
11. Coconut, all parts except seed.
12. Coffee, all parts except seed.
13. Conifers, all parts except seed.
14. Cotton, all parts except seed, seed-cotton, lint and seed-bran.
15. *Dahlia*, vegetative material from South Africa.
16. Elm, and all other species of *Ulmus* and *Zelkova*, all parts.
17. *Eucalyptus* species, vegetative material, from countries outside Africa.
18. Grape vine, and all other species of *Vitaceae*, all parts, except seed, from countries other than eastern and southern Africa.
19. *Hibiscus*, and all other species of *Malvaceae*, all parts except seed.
20. Lucerne, all parts except seed.
21. Maize, all parts except seed.
22. Oak (*Quercus* species), vegetative material, from countries other than southern Africa.

23. *Opuntia* species, including spineless cactus, all parts.
24. Palms from all American countries.
25. Pea (*Pisum*, *Dolichos*, *Lathyrus* and *Vicia* species), all parts except seed.
26. Peach, including nectarine, stones and seed from countries other than Rhodesia and South Africa.
27. Plane (*Platanus* species), all parts except seed.
28. Potato, seed tubers, from all countries except Australia, the United Kingdom and Southern Africa.
29. Rice, all parts except grain for food.
30. Rose, and all other species of *Rosaceae*, from Asia or the Pacific Islands.
31. Rubber (*Hevea* species) from South and Central America.
32. Soya bean, all parts except seed; and seeds from Australia, eastern Europe, Mexico and the United States of America.
33. Sunflower (*Helianthus* species) including Jerusalem artichoke, all parts except seed.
34. Sweet potato, all parts, except tubers for consumption from eastern and southern Africa.
35. Tea, all parts, from countries other than eastern Africa and Rhodesia.
36. Tobacco, all parts except trade samples and seed, and cured tobacco from eastern and southern Africa.
37. Tomato, all parts, except fruit from eastern Africa, Mozambique, Rhodesia and Zambia, and seeds.
38. Forest trees, all parts except seed.

SECOND SCHEDULE

PESTS AND DISEASES OF A PARTICULARLY DANGEROUS NATURE THE PRESENCE OF WHICH RENDERS AN IMPORTED PLANT LIABLE TO IMMEDIATE DESTRUCTION

Anthracnose of tobacco	<i>Colletotrichum tabacum</i> Boning
Bacterial blight of grapes	<i>Erwinia vitivora</i> (Baccarini) Du Plessis
Bacterial blight of peas	<i>Pseudomonas pisi</i> Sackett
Bacterial canker of tomato	<i>Corynebacterium michiganense</i> (E.F.S) Jensen
Bacterial ring-rot of potato	<i>Corynebacterium sepedonicum</i> (Spieck And Kotth.) Skaptason and Burkholder
Bacterial streak of sugar-cane	<i>Xanthomonas albilineans</i> (Ashby) Dawson

Blister blight of tea	<i>Exobasidium vexans</i> Masee
Blue mould of tobacco	<i>Peronospora tabacina</i> Adam
Cereal foot rots	<i>Helminthosporium</i> species
Chestnut canker	<i>Endothia parasitica</i> (Murr.)
Chlorotic streak virus of sugar-cane	<i>Guignardia citricarpa</i> Kiely
Citrus canker	<i>Xanthomonas citri</i> (Hasse) Dowson
Coffee Berry Disease	<i>Colletotrichum coffeanum</i> Noack
Crown gall	<i>Agrobacterium tumefaciens</i> (Smith & Townsend) Conn.
Crown wart of Lucerne	<i>Urophlyctis alfalfae</i> (Lagerh.) Magnus
Dodder	<i>Cuscuta</i> species
Dutch Elm disease	<i>Ceratocystis ulmi</i> (Buism.) C. Moreau
Ergot of rye	<i>Claviceps purpurea</i> Fr. (Tul)
Fiji disease virus of sugar-cane	<i>Saccharum</i> virus 2. Smith
Fireblight	<i>Erwinia amylovora</i> (Burrill) Winslow et al.
Internal cork virus disease of sweet potato	<i>Corynebacterium insidiosum</i> (McCulloch) Jensen
Lucerne wilt	<i>Urocystis cepulae</i> Frost
Onion smut	<i>Fusarium oxysporum</i> f. Cubense (E.F.S.) Snyder & Hansen
Panama disease of banana	
Pierce's disease of the grape (lucerne dwarf virus)	<i>Medicago</i> virus 3. Smith
Rose mosaic virus	Rosa virus 1. Smith
Rose streak virus	Rosa virus 4. Smith
Rose wilt virus	Rosa virus 3. Smith
Stewart's disease of maize	<i>Xanthomonas stewarti</i> (E.F.S.) Dawson
Strawberry red core	<i>Phytophthora fragariae</i> Hickman
Tomato spotted wilt virus (kromnek)	<i>Lycopersicum</i> virus 3. Smith
Wart disease of potato	<i>Synchytrium endobioticum</i> (Schilb.) Percival
Potato root eelworm (golden nematode)	<i>Heterodera rostochiensis</i> Wollenw
Root knot eelworm	<i>Meloidogyne</i> species
Stem and bulb eelworm	<i>Ditylenchus dipsaci</i> (Kuhn)
American bollworm	<i>Haliotis armigera</i> Hubn.
Apple codling moth	<i>Cydia pomonella</i> (L)
Cereal midges	<i>Contarinia</i> species and <i>Sitodiplosis</i> Species
Cherry fruit-fly	<i>Rhagoletis cerasi</i> (L)
Chrysanthemum midge	<i>Diarthronomyia chrysanthemi</i> Ahlb.

Citrus Black Fly	<i>Aleurocanthus woglumi</i> Ashby
Coffee berry borer	<i>Stephanoderes hampei</i> Ferr.
Colorado beetle	<i>Leptinotarsa decemlineata</i> (Say)
Dry wood termite	<i>Cryptotermes brevis</i> (Wlk.)
European house-borer	<i>Hylotrupes bajulus</i> (L)
Japanese beetle	<i>Popillia japonica</i> Newn.
Khapra beetle	<i>Trogoderma granarium</i> Ev.
Mediterranean fruit fly	<i>Ceratitis capitata</i> Wiedm.
Oriental fruit fly	<i>Dacus ddorsalis</i> Hend.
Oriental fruit moth	<i>Cydia molesta</i> Busck.
Pink bollworm	<i>Platydra gossypiella</i> (Saund)
Red scale	<i>Aonidiella aurantii</i> Mask
San Jose scale	<i>Quadraspidiotus perniciosus</i> (Comst.)
Tobacco moth	<i>Ephestia elutella</i> Walk
Woolly aphis (American blight)	<i>Eriosoma lanigerum</i> (Ham.)

THIRD SCHEDULE

MALAWI GOVERNMENT

PLANT PROTECTION ACT

(CAP. 64:01)

PLANT PROTECTION (IMPORT) REGULATIONS

APPLICATION FOR A PERMIT FOR THE IMPORTATION OF PLANTS

**THE SECRETARY TO THE MINISTRY OF AGRICULTURE
(PLANT IMPORTATION PERMITS)**

P O BOX 748
LIMBE

Date:.....

I,
(State full name)

of
.....
.....
(State postal and residential addresses)

hereby apply to import by
(State mode of importation, i.e. whether by post, rail, road or air freight)

from
(State full name of consignor)

of.....
.....
through
(State port of entry in Malawi if mode of importation is not by post)

the following plants
.....
.....
(State number and kinds of plants)

for the purposes of
(State which on or more of the following applies: sale, private use,
manufacture, consumption or propagation for sale)

I intend to grow these plants at
(State exact locality if plants are to be grown)

.....
(Signature of Applicant)

FORM NO. 2

MALAWI GOVERNMENT

PLANT PROTECTION ACT

(Cap 64:01)

PLANT PROTECTION (IMPORT) REGULATIONS

PERMIT AUTHORIZING THE IMPORTATION OF GROWING
MEDIA/INJURIOUS ORGANISMS/INVERTEBRATES/PLANTS

(This permit is to be sent by the importer to the supplier who shall

ensure that it accompanies the growing media/injurious organisms/invertebrates/plants).

Permission is granted to
of
to import in one consignment, within six months of the date of this permit by
from
of
through
the following
.....
subject to the following conditions
.....
.....

Date
for Secretary for Agriculture

MALAWI GOVERNMENT

PLANT PROTECTION ACT

(Cap 64:01)

PHYTOSANITARY CERTIFICATE

THIS IS TO CERTIFY
that the plants, parts of plants products described below or representative samples of them wee thoroughly examined on (date)..... by (name)
an authorized officer of theplant protection

service and were found to the best of his knowledge to be substantially free from injurious diseases and pests; and that the consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in the additional declaration hereon and otherwise.

Fumigation or disinfection treatment (if required by importing country):-

Date:..... Treatment:.....

Duration of exposure:.....

Chemical and Concentration:.....

ADDITIONAL DECLARATION

....., 19.....

(Signature)

(Rank)

Description of the Consignment

Name and address of exporter

Name and address of consignee

Number and description of packages

Distinguishing marks

Origin (if required by importing country)

Means of conveyance

Point of entry

Quantity and name of produce

Botanical name (if required by importing country)

PLANT PROTECTION (FUMIGATION) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATIONS

Citation

Interpretation

Essential fumigation equipment: First Schedule

Fumigators must possess Forms No. 1 and No. 2 of Second Schedule

Notice of intention to fumigate where phytosanitary certificate

G.N.
114/1973

required

Inspector may be present at fumigation
Procedure to be followed in fumigating
Inspection of equipment
Competence of fumigators
Unsatisfactory fumigation: Re-fumigation
Certificate of Competence where fumigation is unsatisfactory
Fumigants and application

FIRST SCHEDULE
(REGULATION 3)

Essential equipment for fumigation

SECOND SCHEDULE
(REGULATION 4 AND 9)

Forms

THIRD SCHEDULE
(REGULATION 7)

Fumigation Procedure – Directions

FOURTH SCHEDULE
(REGULATION 12)

Fumigants

PLANT PROTECTION (FUMIGATION) REGULATIONS

under s. 12

1. These Regulations may be cited as the Plant Protection (Fumigation) Regulations.

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

“fumigant” means any gaseous or readily volatilized chemical used as a pesticide or any substance or substances producing such a chemical;

“fumigation” means the application of a fumigant to any growing medium, plant, commodity or building for the purpose of destroying injurious organisms, and cognate words shall be construed accordingly.

Citation

“sand-snake” means a cylinder of hessian, at least three inches in diameter, and two feet in length, filled with sand and sealed at each end.

Interpretation

3. Before commencing any fumigation, the person who intends to fumigate shall have on hand at the site of the proposed fumigation, and available for use in the operation, the equipment listed in the First Schedule, and such equipment shall be in good repair.

4. No person shall commence any fumigation, unless he has in his possession a Record of Fumigation Form and a Certificate of Clearance Form, being Form No. 1 and Form No. 2, respectively, of the Second Schedule.

Essential fumigation equipment: First Schedule

5. Where –

under the Act, or any other written law, or any instruction of the minister, a phytosanitary certificate is required to be obtained by the owner in respect of any fumigation; or

Fumigator must possess Forms No. 1 and No. 2 of Second Schedule

any owner desires to obtain a phytosanitary certificate in respect of any particular fumigation which he intends to have carried out.

Notice of intention to fumigate when phytosanitary certificate required

such owner shall, not less than twenty-four hours before the commencement of the fumigation, cause notice in writing of his request for a phytosanitary certificate in respect of such intended fumigation to be served upon an inspector, and such notice shall contain particulars of the date, time and place of the intended fumigation and of the fumigant intended to be used therefore

6. An inspector shall be entitled to be present at any fumigation made pursuant to a notice served under regulation 5, and shall be entitled to direct the same.

7. The procedure to be followed in the fumigation of buildings and commodities shall be as set forth in the Third Schedule.

8. An inspector shall be entitled to inspect, at all reasonable times, all equipment used, or intended to be used, in any process of fumigation, and such equipment shall be kept readily available by the fumigator for any such inspection.

Inspector may be present at fumigation

9. The Minister may, at any time and as often as he deems it necessary, require any person who undertakes, or intends to undertake, contracts for fumigation for reward, to show to the satisfaction of any duly authorized inspector, or other public officer, as the case may be, that he, or any employee of his responsible for carrying out any fumigation on his behalf, possesses sufficient knowledge of both the theory and practice of fumigation to engage in such operations. Upon being satisfied that such person possesses such knowledge, the said duly authorized inspector, or other public officer, as the case may be, shall issue to such person a Certificate of Competence in Fumigation in the form set out in Form 3 of the Second Schedule.

Procedure to be followed in fumigating

Inspection of equipment

Competence of fumigators

10. Where any inspector has cause to believe that any fumigation has not been carried out in a satisfactory manner, or in accordance with these regulations, he may order that the building or commodity be re-fumigated as often as such inspector may deem it necessary until the said building or commodity has been fumigated to the inspector's satisfaction. If the fumigation is one for which a phytosanitary certificate is requested or required, the inspector shall not issue such certificate until such fumigation has been properly and satisfactorily executed.

Unsatisfactory fumigation: Re-fumigation

11. Where a re-fumigation has been ordered under regulation 10, the inspector may require that the person responsible for the unsatisfactory fumigation which necessitated the re-fumigation procure a Certificate of Competence in Fumigation pursuant to regulation 9 before undertaking any further or other fumigation under these Regulations, and this requirement may be imposed on any such person whether he has undertaken, undertakes or intends to undertake, contracts for fumigation for reward or otherwise. If, however, the person responsible for any such unsatisfactory fumigation is holder of a Certificate of Competence in Fumigation, the inspector may cancel such Certificate and may require the said person to procure a new such Certificate under regulation 9 before undertaking any further fumigation operations.

Certificate of

Competence where fumigation is unsatisfactory

12. The fumigants to be used in any fumigation under these regulations shall be those fumigants set forth in the Fourth Schedule and shall be used for the respective specific fumigation purposes, and in the respective specific manner, set forth in the said Schedule in respect of such respective fumigation purposes.

Fumigants and application

FIRST SCHEDULE

ESSENTIAL EQUIPMENT FOR FUMIGATION

Fumigation sheets of a size adequate to cover completely any produce to be fumigated allowing an overlap on the ground all round of at least one foot.

Sand-snakes or heavy chains sufficient in number completely to seal the fumigation sheet to the ground.

Where methyl bromide cylinders are used, dispersal tube systems sufficient to ensure even distribution of gas.

Where methyl bromide cans are used, applicators adequate in number to secure even distribution of gas.

Respirators with appropriate canisters sufficient in number to supply one to each person engaged in fumigation.

Halide detector lamp or gas concentration meter.

Sufficient warning notices in English and Chichewa to warn any person of his approach to the fumigation operation.

Where fumigation sheets are to be joined, clamps sufficient in number for such purpose.

SECOND SCHEDULE

Regulation 4 and 9

FORMS

PLANT PROTECTION ACT

FORM NO. 1

(CAP. 64:01)

RECORD OF FUMIGATION

Record of Fumigation No.

1. Date and time of application of fumigation
2. Name of owner
3. Location of premises
4. Situation on premises (Diagram if more than one stack)

-
- 5. Commodity
- 6. Distinguishing marks of commodity to be fumigated
- 7. (Tobacco only) Nature of Liners
- 8. Dimensions of stacks or building and cubic capacity
- 9. Nature of infestation if known
- 10. Number and sizes of sheets used
- 11. Dosages required for each stack or room
- 12. (Methyl bromide cylinders only) identification numbers and weights of each cylinder at beginning and end of application to each stack or room (for main and booster doses of tobacco)
- 13. Date and time of commencement of airing
- 14. Date and time of issue of clearance certificate
- 15. Person to whom clearance certificate given
- 16. Air temperature at time of application of fumigant
- 17. Evidence, if any, of efficacy of treatment (e.g. presence of dead insects)
-
- 18. Name of person responsible for fumigation

Signed

Rank

Date

PLANT PROTECTION ACT

(CAP. 64:01)

CERTIFICATE OF CLEARANCE

Certificate of Clearance No

This is to certify that I have carried out fumigation on the premises of

..... in accordance

with Record of Fumigation number

and now declare the premises free of gas and ready for reoccupation.

Signed

Rank

Date and time

PLANT PROTECTION ACT

(CAP. 64: 01)

CERTIFICATE OF COMPETENCE IN FUMIGATION

This is to certify that I have today examined
as to both his theoretical and practical competence in fumigation with
..... and found that he
has the knowledge adequate to enable him to carry out such
fumigation satisfactorily.

Signed

*for Permanent Secretary for
Agriculture and Natural Resources*

Date

THIRD SCHEDULE

Regulation 7

FUMIGATION PROCEDURE

DIRECTIONS

Buildings:

Where an entire building is to be fumigated the walls and roof must be rendered impervious to gas, and all doors and ventilators, as well as all cracks or joints, shall be sealed while the fumigation is in progress, and a warning notice shall be placed outside each entrance to the building.

Commodities:

Where any commodity is to be fumigated it shall be placed in a

stack or stacks in such a manner as to allow full penetration of the fumigant throughout such stack or stacks.

Before commencing fumigation –

(i) indoors, the floor of the building in which the operation is to be carried out shall be of concrete or firm dry earth and shall be examined thoroughly to ensure that it is impervious to gas. If the floor is not of concrete or of firm dry earth, or if it is found not to be impervious to gas, the commodity to be fumigated shall be stacked on a fumigation sheet in accordance with these directions;

(ii) out of doors, the commodity to be fumigated shall be stacked on a concrete slab, or on a fumigation sheet in accordance with these directions.

For fumigation by –

(i) Methyl bromide, the distribution piping shall be placed in position on top of the stack;

(ii) Aluminium phosphide, the tablets shall be distributed evenly around the stack, preferably in papier mache egg-trays, ensuring that adjacent tablets do not touch each other, and such fumigant shall be applied in the manner and at the dosage appropriate thereto, as set out in the Fourth Schedule.

A fumigation sheet shall be fitted over each stack, completely covering the same so that a one-foot wide margin of the sheet shall be extending on to the floor all round the stack.

The sand-snakes, or chains, shall be placed in position on the floor on top of the extended margin of the sheet all round the stack, ensuring that each sand-snake, or chain, touches those on each side of it.

The warning notices shall be placed in position; at least one warning notice at each accessible corner of each stack. If the stacks are inside a building a warning notice shall also be placed outside each entrance to the building.

Where methyl bromide is to be used as the fumigant each person present shall put on a respirator and see that it is properly fitted. Respirators shall continue to be worn by all present throughout the operation until after compliance with direction (*h*); and at least two persons shall be present at all times until the fumigation is concluded.

A check for leaks shall be made. Whenever possible, a halide lamp

or gas concentration meter shall be used for this purpose.

If any leaks are found, they shall be sealed off immediately, by adjusting the position of the sand-snakes, chains or clamps.

When the stack or stacks are found free of leaks, respirators may be removed.

Record of Fumigation (Form No. 1, Second Schedule) shall be completed as far as item 12 and delivered to the owner, and the owner shall be instructed that unauthorized persons must not be permitted access to the fumigation area.

If the stack or stacks are indoors and the relevant period of fumigation has elapsed, all doors, windows and ventilators to the building, in which the stack or stacks are located, shall be opened. The fumigation sheets covering the stack or stacks shall be removed, and the building vacated quickly. Respirators shall be worn by all persons before entering the building during this operation, and shall be worn throughout the operation. The warning notices shall be put back in position. When the building is declared free of gas by the fumigator, the respirators may be taken off, the warning notices removed, and general access to the building permitted.

If the stack or stacks are outside and the relevant period of fumigation has elapsed, the fumigation sheet covering each stack may be removed and the warning notices put back in position. Respirators shall be worn by all persons present during this operation.

When the fumigator declares the area free of gas, the respirators may be taken off, the warning notices removed, and general access to the area permitted.

A building, or an area, shall not be declared free of gas by the fumigator until the halide lamp, or gas concentration meter, shows that the building, or area, is safe, or smell of phosphine gas has dissipated.

The fumigator shall complete items 13 to 18 of the Record of Fumigation and a Certificate of Clearance (Form No. 2, Second Schedule) and deliver them to the owner.

Where a phytosanitary certificate is required, a copy of the Record of Fumigation (Form No. 1, Second Schedule) and of the Certificate of Clearance (Form No. 2, Second Schedule) shall be delivered to the inspector who was notified pursuant to regulation 5.

FOURTH SCHEDULE

Regulation 12

FUMIGANTS

DOSAGE RATES (per 1, 000 cu. Ft. or 30cu. M)

[Exposure timed given is the minimum. It is always advantageous to lengthen it. If the commodity temperature is below 20 degrees Celsius the times should be increased by 50 per cent.]

<i>Fumigant</i>	<i>Commodity</i>	<i>Quantity</i>	<i>Minimum Exposure time</i>
Methyl Bromide	Grain, rice	2lb.	24 hours
	cassava, flour, etc.		
	Beans, groundnuts, Cotton	3lb.	24 hours
	Tobacco (with polythene liners)	4lb. followed by	

		additional 2lb. after 24 hours	72 hours
	Tobacco (with Paper liners)	4lb.	72 hours
	Tobacco (no lining)	3lb.	72 hours
	Empty buildings	2lb.	24 hours
	Tobacco seedbeds	1lb. Per 100 square feet	48 hours
2. Aluminium phosphide	Grain, rice cassava, flour, etc	45 tablets	3 days
	Tobacco	20 tablets	5 days
	Beans, groundnuts	30 tablets	3 days
	Empty buildings	20 tablets	3 days
	If <i>Trogoderma granarium</i> is present (not at Present known in Malawi) 45 tablets for at Least 5 days exposure time must be used.		
3. DDVP - Dichlorvos	Empty buildings	2gms a.i.	weekly applic- ation
4. Ethylene dibromide (EDB)	Tobacco seedbeds	By injector gun using 5ml.(ccs) per injection point. Spacing 38cm. X 38cm. (15in x 15in) To depth of 25 – 30 cm. (10 – 12 in.).	
5. Dichloro- propanedi- chloropropane (DD)	As EDB but 8ml. Per injection point.		

NOXIOUS WEEDS

ARRANGEMENT OF SECTIONS

SECTION

- Short title
- Interpretation
- Duty of persons responsible to clear
- Power to enter upon land
- Notice to be served on persons responsible for infected land
- Manner in which notices may be served
- Penalty for failure to comply with notice
- Inspector may clear at expense of person responsible
- Penalty for obstruction of weed inspector in exercise of his duty
- Noxious weed not to be disposed of in certain ways
- Power to take samples of seed and treatment of plant, seed or grain offered for sale
 - Penalty for offering for sale infected seed, etc.
 - Local Authorities authorized to make By-laws *ad hoc*

Responsible person in any district may petition Government to have plant declared noxious weed

Minister may declare plant to be noxious weed or remove any plant from list of noxious weed

Regulations

An Act to make Provision for the eradication of Noxious Weeds

[31ST OCTOBER, 1936]

1. This Act may be cited as the Noxious Weeds Act.

2. In this Act, except where the context otherwise requires -

“clear” means to dig up or pull up and burn noxious weeds, or to employ other means of destruction authorized by the Minister;

“noxious weed” means any plant which the Minister may by notice published in the Gazette declare to be a noxious weed, either throughout the whole of Malawi or in one or more Districts or portions of Districts thereof;

“owner”, in relation to unoccupied land, includes –

in the case of a company or an association, the manager or, if his name be not known, any director of the company or association;

in the case of a partnership, the manager or, if his name be not known, any member of the partnership;

“person responsible”, in relation to land, means –

the occupier of land, or in the case of unoccupied land the registered owner thereof;

in the case of a mining location, the holder of such location;

in the case of public land or customary land over which grazing or other rights have been granted, the holder of such rights;

17 of 1936

8 of 1951

1 of 1963

G.N.22/1963

50/1963

1/1965

137/1966

Short title

Interpretation

in the case of land in customary land, the occupier or person who has the use of such land, or the Chief who has jurisdiction thereover, or all or any of the inhabitants of the nearest village;

in the case of commonage or town lands or roads or other areas, the Municipal Council or Town Council under whose control or within whose jurisdiction such land, road or other area is situate;

“weed inspector” means any person authorized by the Minister to perform the duties of an inspector under this Act. Magistrates, District Commissioners, Assistant District Commissioners, and all members of the police force shall be ex officio weed inspectors for the purposes of this Act.

3. It shall be the duty of every person responsible under this Act to clear or cause to be cleared any noxious weeds growing or occurring on the land in respect of which he is responsible. It shall further be the duty of any person to report forthwith to the nearest known weed inspector the occurrences of any noxious weeds on any land in respect of which such person is responsible.

Any person contravening this section shall be liable to a fine of 10pounds or in default of payment to imprisonment for one month.

4. A weed inspector may at all reasonable times enter upon any land, whether enclosed or not, for the purpose of ascertaining if any noxious weeds are growing thereon.

5. If a weed inspector finds any noxious weed growing or occurring upon land, he may by notice in writing to the person responsible require him to clear such land within a reasonable time to be specified in the notice, and it shall thereupon be the duty of the person responsible to do so. Such notice shall indicate the particular noxious weed occurring upon the land and as nearly as practicable the portion or portions of the land on which the said noxious weed occurs.

*Duty of persons
responsible to
clear*

6. Any notice under this Act shall be in writing, signed by the person giving such notice. Such notice shall be deemed to be duly served –

if served personally upon the person responsible; or

if left addressed to the person responsible at his usual or last known place of abode; or

Power to enter upon land if posted in a prepaid registered letter addressed to the person responsible at his last known place of abode or business.

Notice to be served on person responsible for infected land 7. Any person responsible who fails to comply with any such notice shall be liable to a fine of 25pounds, or in default of payment to imprisonment for three months.

Manner in which notices may be served 8. if the person responsible fails to clear the land as aforesaid, or if such notice cannot be served in the manner prescribed by section 6, a weed inspector may, upon receiving written authority from the Permanent Secretary, enter upon the land with or without assistance and eradicate any noxious weed found thereon; but nothing herein contained shall relieve the person responsible from any penalty he may have incurred under this Act, and the Permanent Secretary may recover the cost, charges and expenses of clearing the land aforesaid by action in any competent court.

9. Any person who obstructs or hinders a weed inspector in the exercise of his duty under this Act shall be guilty of an offence and shall be liable to the penalty prescribed in section 7.

Penalty for failure to comply with notice 10. No person shall throw any noxious weed or the seed of such noxious weed into any river or stream, or on to any road or land.
Any person disobeying this section shall be liable to the penalty prescribed in section 7.

Inspector may clear at expense of person responsible 11. Any weed inspector may at all reasonable times enter any premises where any plant, seed or grain is offered for sale and may take samples thereof, and should such weed inspector find any plant, seed or grain which is likely to propagate or spread the growth of noxious weeds, such plant, seed or grain shall, when deemed necessary by the inspector, be treated by or at the expense of the consignee or vendor, or in the manner prescribed by or to the satisfaction of the inspector, and if not so treated, or if such treatment be deemed ineffectual, the Permanent Secretary may cause such plant, seed or grain to be destroyed.

Penalty for obstruction of weed inspector in exercise of his duty

12. Any person who knowingly sells or offers or exposes for sale any plant, seed or grain which is likely to propagate or spread the growth of noxious weeds shall be liable to the penalty prescribed in section 7.

Noxious weed not to be disposed of in certain ways

13. Every Municipal Council and Town Council shall have power to make By-laws or Regulations compelling occupiers of land within the Municipality or Township to keep their land free from noxious weed.

Contravention of such By-laws or Regulations shall be punishable in the same way as in the case of Municipality or Township By-laws or Regulations.

Power to take samples of seed and treatment of plant, seed or grain offered for sale

14. Any responsible person or persons in any District or portion of a District of Malawi may petition the Minister to declare any plant to be a noxious weed for the purpose of this Act in such District or portion of a District. On receipt of such petition the Minister shall cause notice to be given in the *Gazette* setting forth the nature of the petition and calling upon any responsible persons in the said District or portion of a District to lodge, in writing, within a reasonable time to be fixed by such notice, objections (if any) to the said petition being acceded to. Thereupon, on the expiration of the period fixed for receiving objections, the Minister shall take the same into consideration and may grant or refuse the petition.

Penalty for offering for sale infected seed, etc

Local Authorities authorized to make By-laws ad hoc

15. Notwithstanding the last preceding section, the Minister may at any time, by notice published in the *Gazette*, declare any plant to be a noxious weed, either throughout the whole of Malawi or in one or more Districts or portions of Districts thereof, and may by like notice remove any plant from the list of plants declared noxious weeds:

Provided that at least thirty days before exercising his powers under this section the Minister shall, by publication in the *Gazette* and in the local press, signify his intention of declaring a plant to be a noxious weed.

Responsible person in any district may petition Government to have plant declared noxious weed

16. The Minister may make, alter and amend Regulations, not inconsistent with this Act, prescribing the measures to be taken to prevent the introduction and spread of noxious weeds, the authority and duties of weed inspectors and generally for the better carrying out of the objects and purposes of this Act. The penalty for contravention of any such regulation shall be that prescribed in section 7.

*Minister may
declare plant to be
noxious weed or
remove any plant
from list of noxious
weed*

Regulations

SUBSIDIARY LEGISLATION

DECLARATION OF NOXIOUS WEEDS

under s. 15

The following plants have been declared to be noxious weeds throughout the whole of Malawi in terms of section 15 of the Act –

Indian hemp	G.N.167/1953
Eichhornia crassipes (water hyacinth)	G.N.97/1956
Acanthospermum hispidum DC (upright Starbur)	G.N.20/1957
Lantana Camara	G.N.122/1961