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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Ninu Zammit, M.P., Ministru għall-Agricoltura u Sajd, u moqri għall-Ewwel darba fis-Seduta ta' l-20 ta' Lulju, 1999.

ATT biex ma jithallewx jidhlu f'Malta organiżmi li jagħmlu l-hsara lill-pjanti, biex dawn jiġu kkontrollati u mraġżnin il-firxa tagħhom u biex tipprovdi għal materji oħra li jkunu inċidentali u anċillari għaliha.

RICHARD J. CAUCHI

Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Ninu Zammit, M.P., Minister for Agriculture and Fisheries, and read the First time at the Sitting of the 20th July, 1999.

AN ACT to prevent the introduction into Malta of plant pests and diseases, to control and check the spread thereof and to provide for other matters incidental and ancillary thereto.

RICHARD J. CAUCHI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI msejjah

ATT biex ma jithallewx jidhlu f'Malta organiżmi li jagħmlu l-ħsara lill-pjanti, biex dawn jiġu kkontrollati u mraġżnin il-firxa tagħhom u biex tipprovdi għal materji oħra li jkunu inċidentali u anċillari għaliha.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

Taqsim I

Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att ta' l-2001 dwar il-Kwarantina tal-Pjanti. Titolu fil-qosor u bidu fis-schh.

(2) Dan l-Att għandu jibda' jsehh f'dik id-data li l-Ministru responsabbli għall-Agricoltura jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistghu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma' tehtiegx Tifsir.
xort'oħra -

"ċertifikat fitosanitarju" tfisser ċertifikat li għandu x'jaqsam mal-kondizzjoni tas-saħħa tal-pjanta u l-origini ta' konsenja ta' pjanti u, jew materjal vegetali imhejji u mahruġ skond il-Konvenzjoni;

"Dipartiment" tfisser id-Dipartiment responsabbli għas-saħħa tal-pjanti;

"Direttur" tfisser id-Direttur tad-Dipartiment u, sal-limitu tal-funzjonijiet mogħtija, tinkludi kull uffiċjal pubbliku awtorizzat mid-Direttur għal hekk bil-miktub għal xi wiehed mill-ghanijiet ta' dan l-Att;

"hamrija" tfisser kull materjal kapaċi li jsostni hajja veġetali bħal trab, ilma, terriċċju jew tafal imma mhux materjal sterili jew li ma jkunx kapaċi jgħorr jew isostni organiżmi li jagħmlu l-ħsara;

"importatur" tinkludi kull persuna li, kemm bhala sid, bhala dak li jikkonsenja, bhala dak li jilqa' għandu, bhala aġent, bhala sensal jew xort'ohra, jkollha fil-pussess tagħha jew b'xi mod tkun intitolata li tiehu ħsieb xi materjal tal-pjanti, organiżmu li jagħmel l-ħsara, organiżmu li jagħmlu l-ġid, hamrija jew ippakkjar importat jew li jkun hemm il-ħsieb li jiġi importat f'Malta minn xi pajjiż ieħor;

"Konvenzjoni" tfisser il-Konvenzjoni Internazzjonali tal-Harsien tal-Pjanti iffirmata f'Ruma nhar is-6 ta' Diċembru 1951, kif emendata jew flimkien ma' xi konvenzjoni ohra skond kif ikun preskritt mill-Ministru minn żmien għal żmien;

"Malta" għandha l-istess tifsir kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta;

"materjal għat-tnissil" tfisser kull pjanta hajja jew parti ta' pjanta hajja, użat jew maħsub għat-tnissil, li jinkludi żrieragh, ġdur, xitel, basal, riżomi jew kulturi ta' xi biċċiet ta' pjanti;

"materjal ta' l-ippakkjar" tfisser kull materjal li jintuża biex jiġi ppakkjat, kontenut jew jinżamm materjal veġetali, organiżmi li jagħmlu l-ġid, hamrija jew organiżmi li jagħmlu l-ħsara;

"materjal veġetali" tinkludi kull pjanta, parti ta' pjanta, materjal għat-tnissil jew prodott veġetali li tista' ssirlu ħsara jew li jkun iġorr fih jew miegħu, xi organiżmi li jagħmlu l-ħsara;

"Ministru" tfisser il-Ministru responsabbli għall-Agricoltura u, sal-limitu tal-funzjonijiet mogħtija, tinkludi kull uffiċjal pubbliku awtorizzat mill-Ministru għal hekk bil-miktub għal xi wiehed mill-ghanijiet ta' dan l-Att;

"mezz u mod ta' ġarr" tfisser kull haga wżata biex iġgħorr materjal minn post għal ieħor u tinkludi ajruplani, *hovercraft*, ferroviji, vetturi, karettuni, *containers*, bhejjem u kull haga ohra li tista' ġgħorr materjal veġetali, organiżmi li jagħmlu l-ħsara, organiżmi li jagħmlu l-ġid jew hamrija;

"organizmi li jaghmlu l-gid" tfisser kull organizmu, li jinkludi mofof, batteri, *virus* jew organizmi li jixbhu lil *virus*, organizmi minghajr xewka tad-dahar jew xi animal iehor li jkun dikjarat bil-miktub mill-Ministru, wara konsultazzjoni mall-Ministru responsabbli għall-harsien ta' l-ambjent, li jkun ta' gid għall-flora Maltija jew għall-produzzjoni agrikola;

"organizmi li jaghmlu l-ħsara" tfisser kull għamla ta' pjanta jew animal jew xi aġent li jikkawża mard, minnbarra organizmi li jaghmlu l-gid, li jkunu kapaċi li, b'mod dirett jew indirett, jistghu jikkawżaw il-ħsara lil xi materjal veġetali jew organizmu li jaghmel il-gid u tinkludi organizmi ta' ħsara li jkunu ġew modifikati ġenetikament u ħaxix ħażin;

"pjanti" tfisser pjanti ħajjin u partijiet ta' pjanti ħajjin, inklużi ż-żerriegħa, frott u ħxejjex (ħlief dawk iffriżati), partijiet ta' pjanti li jkunu taht l-art, fjuri mqacċtin, zkuk, siġar bil-weraq u kulturi fit- ta' biċċiet tal-pjanti;

"post tad-dhul indikat" tfisser port, ajruport, uffiċċju postali jew xi post iehor indikat mill-Ministru bhala post li fih huwa permess li ssir l-importazzjoni ta' materjal veġetali, u tinkludi port hieles kif imfisser fl-Att dwar il-Portijiet Hielsa ta' Malta;

Kap. 334.

"post ta' kwarantina" tfisser post uffiċċjali stabbilit mill-Ministru bhala post fejn materjal veġetali jkun maħzun għal spezzjonar fitosanitarju, osservazzjoni, analizi jew riċerka;

"prodott veġetali" tfisser xi materjal mhux maħdum li jkun imnissel minn pjanti u dawk il-materjali oħra maħduma li, permezz tan-natura tagħhom jew bhala riżultat ta' l-ipproċessar, ikunu jistghu johlqu r-riskju li jinfirxu organizmi li jaghmlu l-ħsara;

"skema ta' ċertifikazzjoni" tfisser metodu ta' tkabbir, ħarsien u testijiet ta' pjanti biex jiġi żgurat li huma hielsa minn organizmi li jaghmlu l-ħsara partikolari u mard partikolari;

"spettur" tfisser kull spettur maħtur skond l-artikolu 26 u kull uffiċċjal iehor tas-Servizz tal-Harsien tal-Pjanti jew xi persuna oħra maħtura għal hekk mid-Direttur bil-miktub minn żmien għal żmien;

"thawwil" tfisser kull xogħol li bih pjanti jiġu mqegħda b'tali mod li jiżgura t-tkabbir, ir-riproduzzjoni jew propagazzjoni tagħhom;

"trattament" tfisser kull proċess adattat, li jinkludi l-użu ta' kimiċi, shana jew pressjoni baxxa, u li bih jiġi żgurat t-tneħħija, l-isterilizzazzjoni jew il-qtil ta' xi organizmu li jaghmel il-ħsara;

"uffiċċjal awtorizzat" tfisser uffiċċjal tal-Korp tal-Pulizija, tad-Dwana, tas-Servizzi Postali jew tas-Servizz tal-Harsien tal-Pjanti jew xi persuna oħra li jkollha l-awtorizzazzjoni bil-miktub mid-Direttur biex tinforza jew twettaq xi disposizzjoni ta' dan l-Att.

Taqsimha II

Amministrazzjoni

Servizz tal-Harsien tal-Pjanti.

3. (1) Id-Direttur għandu jkun responsabbli għas-Servizz tal-Harsien tal-Pjanti u għandu jamministra u jenforza id-disposizzjonijiet ta' dan l-Att.

(2) Is-Servizz tal-Harsien tal-Pjanti għandu -

(a) jispezzjona xtieli li jkunu qegħdin jikbru, uċuh ikkoltivati u pjanti u materjal veġetali maħżuna jew li jkunu qed jingarru lokalment, sabiex jirrapporta l-eżistenza, bidu u tifrix ta' organiżmi li jagħmlu l-ħsara u sabiex jiġu kontrollati organiżmi li jagħmlu ħsara;

(b) dwar konsenji ta' materjal veġetali li jkunu qegħdin f'pajjiżna bħala riżultat ta' moviment internazzjonali -

(i) jispezzjona dawk il-konsenji u, fejn ikun meħtieġ, jispezzjona konsenja ta' kull forma ta' materjal ieħor li jkunu f'pajjiżna bħala riżultat ta' moviment internazzjonali taħt kondizzjonijiet li dan l-istess materjal jista' jservi bħala mezz inċidentali ta' ġarr ta' organiżmi li jagħmlu l-ħsara;

(ii) jispezzjona u jgħasses faċilitajiet ta' kull forma ta' hażna u trasport, b'mod partikolari biex ma jhallux it-tifrix ta' dawk l-organiżmi li jagħmlu l-ħsara, fit-territorju nazzjonali;

(iii) jiddiżinfesta u jiddiżinfetta konsenji ta' pjanti u materjal veġetali, kif ukoll il-kontenituri tagħhom, l-ippakkjar, l-imħażen jew faċilitajiet ta' trasport;

(ċ) jistabilixxi l-perċentaġġ ta' spezzjonijiet li għandhom isiru;

(d) johroġ ċertifikati fitosanitarji jew passaporti tal-pjanti;

(e) jawtorizza postijiet fejn jixxettlu l-pjanti biex johorġu passaporti tal-pjanti skond regolamenti preskritti taħt

dan l-Att;

(f) jaġġorna u jqassam minn żmien għal żmien listi ta' materjal veġetali, organiżmi li jagħmlu l-ħsara u dawk li jagħmlu l-ġid, li l-importazzjoni tagħhom f'Malta hija pprojbita jew ristretta;

(g) iqassam tagħrif f'Malta dwar organiżmi li jagħmlu l-ħsara u prodotti veġetali u l-metodi kif jiġu kkontrollati u ma jithallewx jinfirxu;

(h) jippromwovi il-manneġġjar u l-kontroll integrat ta' organiżmi li jagħmlu l-ħsara f'Malta;

(i) imexxi r-riċerka u *surveys* fil-qasam tal-ħarsien tal-pjanti;

(j) jamministra u jenforza id-disposizzjonijiet ta' dan l-Att; u

(k) jattwa dawk l-affarijiet li d-Direttur jista' jippreskrivi.

4. (1) Il-Ministru għandu jahtar Bord dwar il-ħarsien tal-Pjanti, hawnkekk iktar 'il quddiem imsejjaħ "il-Bord", li jinkludi fih rappreżentanti tad-Direttur, tad-Dipartiment responsabbli għall-protezzjoni ta' l-ambjent u tad-Dipartiment tad-Dwana.

Bord dwar il-ħarsien tal-Pjanti.

(2) Il-Bord għandu jirrevedi b'mod regolari l-istat tal-kwarantina tal-pjanti f'Malta, dwar il-formulazzjoni ta' politika f'dan ir-rigward u jagħti parir lill-Ministru fuq xi hwejjeġ li jikkonċernaw dan l-Att b'mod speċjali dwar -

(a) il-ħruġ ta' regolamenti taħt dan l-Att u hwejjeġ li jitqajmu mit-twettiq ta' dawn ir-regolamenti;

(b) l-avviż ta' xi organiżmu li jagħmel ħsara skond l-artikolu 20;

(ċ) l-implikazzjonijiet fitosanitarji li joħorgu mill-importazzjoni ta' xi materjal veġetali, prodott veġetali, organiżmi li jagħmlu l-ħsara, organiżmi li jagħmlu l-ġid jew ħamrija;

(d) l-immaniġġjar, it-thaddim, u l-ħtiġiet tas-Servizz tal-ħarsien tal-Pjanti; u

(e) id-dijanjosi, skoperta jew identifikazzjoni ta' organiżmi u mard partikolari.

Skemi għaċ-
Certifikazzjoni
tal-Pjanti.

5. Id-Direttur jista' jistabbilixxi Skemi għaċ-Certifikazzjoni tal-Pjanti li għandhom jaddottaw *standards* internazzjonali u li għandhom jiġu amministrati u aġġornati mis-Servizz għall-Protezzjoni tal-Pjanti fuq il-parir tal-Bord.

Taqsimha III

Importazzjoni

Projbizzjoni ta'
importazzjoni.

6. L-ebda persuna ma tista' timporta f'Malta materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, hamrija jew materjal ta' l-ippakkjar hliet kif preskritt skond dan l-Att.

Permessi u
certifikati.

7. (1) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2), kull materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, hamrija jew materjal ta' l-ippakkjar jista' jiġi importat biss f'Malta permezz ta' post ta' dhul awtorizzat u malli jiġi importat għandu jiġi ddikkjarat u sottomess flimkien mal-permessi u ċertifikati preskritti sabiex jiġi eżaminat mill-ispettur.

(2) Il-Ministru jista', wara konsultazzjoni mal-Bord, permezz ta' regolamenti jew avviżi imxandra fil-Gazzetta, jeżenta xi klassi jew tip ta' materjal veġetali milli jiġi dikkjarat malli jiġi importat.

(3) Id-Direttur jista' wara konsultazzjoni mal-Bord, permezz ta' avviż mahruġ fil-Gazzetta jistabbilixxi id-dettalji tal-kondizzjonijiet li taħthom u, jew, trattamenti li kull materjal veġetali, li jorigina minn dawk il-pajjiżi, u, jew, żoni, kif jista' jiġi speċifikat fl-avviż, għandu jkun soġġett qabel ma jiġi importat.

Spezzjon.

8. Il-persuna inkarigata minn xi mezz ta' ġarr jew hażna ta' xi oġġett li jkun irid jiġi ddikkjarat skond l-artikolu 7(1) għandha tqiegħed dan il-mezz u l-kontenut tiegħu biex jiġi spezzjonat u jingħata trattament mill-uffiċċjal awtorizzat skond dan l-Att fi żmien li jkun raġonevolment possibbli wara li dan il-materjal jasal f'Malta jew f'xi żmien ieħor raġonevolment possibbli skond id-direzzjoni ta' l-ispettur, li għandu jistabbilixxi l-post ta' l-ispezzjon.

Avviż lid-
Direttur.

9. Kull persuna f'Malta li tirċievi xi materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid jew xi hamrija minn barra minn Malta kemm jekk dik il-persuna tkun tat il-permess li jintbagħtilha jew le, għandha, minnufih malli tirċevih tavża lil xi spettur u twettaq dak li jgħidilha l-ispettur fir-rigward ta' qerda, disponiment jew trattament ta' dan il-materjal dejjem għas-sodisfazzjon ta' l-ispettur.

10. Kull haġa importata f'Malta, jew li tkun qiegħda in transitu f'Malta jew mġarra minn xi parti għal oħra ta' Malta, bi ksur ta' dan l-Att, tista', flimkien mal-kontenitur li jintuza biex jittrasportaha jew xi haġa oħra li jkun hemm suspett li tista' tospita xi organiżmu li jagħmel il-ħsara, tiġi maqbuda mill-Pulizija u tista' tiġi meqruda, isir disponiment minnha, ttrattata jew isir mod ieħor minnha skond kif jidhirlu xieraq l-ispettur jew il-persuna awtorizzata, skond id-disposizzjonijiet ta' dan l-Att.

Qbid ta' pjanta li jkollha organiżmu li jagħmel il-ħsara.

11. (1) Id-Direttur jista' permezz ta' avviż ippubblikat fil-Gazzetta, jehtieg illi xi klassi ta' materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, ħamrija jew materjal ta' l-ippakkjar ma jkunx jista' jiġi importat f'Malta minn dawġ il-pajjiżi jew żoni, kif jista' jiġi speċifikat fl-avviż, ħlief b'permess ta' l-importazzjoni u bi qbil strett mal-kondizzjonijiet tal-permess.

Permess għall-importazzjoni.

(2) Id-Direttur jista' -

(a) johroġ, jirrifjuta li johroġ jew iħassar xi permess ta' l-importazzjoni jew;

(b) jippreskrivi f'xi permess għall-importazzjoni dawġ it-termini u kondizzjonijiet li d-Direttur jidhirlu xierqa u f'kull żmien, kemm qabel kif ukoll wara l-importazzjoni, jibdel jew iżid mat-termini jew il-kondizzjonijiet.

12. Id-Direttur jista', permezz ta' avviż ippubblikat fil-Gazzetta, jitlob illi xi klassi ta' materjal veġetali, kif jiġi speċifikat fl-avviż, ma jkunx jista' jiġi importat ħlief permezz ta' ċertifikat fitosanitarju maħruġ jew passaport tal-pjanti rikonoxxut mill-organizzazzjoni responsabbli mill-ħarsien tal-pjanti tal-pajjiż esportatur skond il-Konvenzjoni u li jkun konformi f'kollox jew mal-mudell ta' ċertifikat fitosanitarju għall-esportazzjoni jew għar-ri-esportazzjoni, skond il-każ, kif jidher fl-Annex tal-Konvenzjoni.

Ċertifikat fitosanitarju jew passaport tal-pjanti.

13. (1) Minkejja kull haġa li hemm f'dan l-Att, id-Direttur jista', wara li jikkonsulta mal-Bord, b'avviż fil-Gazzetta, jipprojbixxi jew jirrestringi d-dhul, il-bejgħ, il-koltivazzjoni, il-propagazzjoni jew iċ-ċaqliq ta' xi materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, ħamrija, materjal ta' l-ippakkjar jew xi haġa oħra li tkun kapaċi tospita jew ixxerred xi organiżmu li jagħmel il-ħsara.

Projbizzjoni jew restrizzjoni.

(2) Kull avviż mogħti skond is-subartikolu (1) għandu jiskadi sitt xhur wara li jkun jiġi pubblikat fil-Gazzetta, sakemm ma jiġix imġedded.

Għemil ta' regoli.

14. Il-Ministru jista', bil-parir tal-Bord, jagħmel regolamenti li jistabbilixxu regolamenti għar-reklamar ta' materjal għat-tnissil u materjal għat-thawwil, u jista' b'dawn ir-regolamenti jistabbilixxi l-kondizzjonijiet biex jingħataw permessi għall-importazzjoni u trasport ta' xi materjal veġetali, organiżmu li jagħmel il-ħsara jew organiżmi oħrajn għal skop ta' tiftix xjentifiku jew mod ieħor, soġġett għat-termini u l-kondizzjonijiet li jistgħu jiġu stabbiliti jew issir referenza għalihom fir-regolamenti biex jiġu mharsa s-sahha pubblika, l-agrikolutura u, jew, l-ambjent.

Assistenza.

15. (1) L-uffiċċjali kollha tal-Posta u tad-Dwana, għandhom jassistu lid-Dipartiment biex ma tithalliex l-importazzjoni f'Malta ta' xi oġġetti li jmorru kontra dan l-Att u biex jagħmlu hekk jistgħu jeżerċitaw il-poteri kollha mogħtija lilhom skond l-Ordinanza tad-Dwana u l-Att dwar l-Uffiċċju tal-Posta jew xi liġi li tissostitwihom.

Kap. 37.
Kap. 254.

(2) Kull uffiċċjal tad-Dwana jew tal-Posta li jsir jaf li ġew importati xi materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, ħamrija, materjal ta' l-ippakkjar jew xi haġa oħra li huma regolati b'dan l-Att, ħlief ta' hwejjeġ li ma jkunx hemm bżonn li jiġu ddikjarati skond l-artikolu 7(2) għandu javża minnufih lil xi spettur jew xi uffiċċjal ieħor awtorizzat tas-Servizz għall-Harsien tal-Pjanti.

Ġarr jew manigġar ta' kontenitur.

16. (1) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2), l-ebda materjal veġetali, organiżmu li jagħmel il-ħsara, ħamrija u materjal ta' l-ippakkjar li jkun qiegħed jiġi eżaminat jew li jkun jista' jiġi eżaminat minn spettur ma jkun jista' jiġi mċaqlaq jew mingġat bl-ebda mod u lanqas ma jista' jinfetħ xi kontenitur ħlief taħt id-direzzjoni ta' xi spettur.

(2) Uffiċċjal tad-Dwana jew tal-Posta jista' jċaqlaq jew imiss oġġett li għalih hemm referenza fis-subartikolu (1) sakemm ikun jeħtieġ sabiex dak l-uffiċċjal ikun jista' jaqdi dmiru b'mod xieraq, sakemm l-infurzar u l-ksib ta' skopijiet ta' dan l-Att ma jiġux ippreġudikati.

Reġistrazzjoni mal-Servizz tal-Harsien tal-Pjanti.

17. Id-Direttur jista' jeħtieġ li kull persuna li tkun involuta fil-propagazzjoni, fil-ħażna, fl-importazzjoni, fl-esportazzjoni jew fil-produzzjoni jew xi negozju ieħor konness ma' materjal veġetali, li tirreġistra mas-Servizz tal-Harsien tal-Pjanti u thares il-ħtiġiet li minn żmien għal żmien id-Direttur jista' raġonevolment jeħtieġ.

Eżami u teħid ta' kampjuni.

18. Kull persuna li tkun importat xi materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, ħamrija, jew materjal ta' l-ippakkjar għandha, meta tiġi mitluba mill-ispettur, thalli l-materjal importat jiġi eżaminat u li jittieħdu xi kampjuni minn

xi spettur f'xi hin raġonevoli sabiex l-ispettur ikun jista' jistabbilixxi jekk dawn ikunx konformi ma' dan l-Att jew xi permess li jkun mahruġ tahtu, jew jekk ikunx hemm bżonn li jittiehdu xi passi oħra.

Taqsimu IV

Kontroll ta' l-Esportazzjoni

19. (1) Kull persuna li tkun bi hsiebha tesporta kunsinna ta' pjanti jew materjal veġetali lejn pajjiż ieħor għandha tissottometti l-kunsinna lis-Servizz tal-Harsien tal-Pjanti għall-eżami qabel l-esportazzjoni.

Eżami qabel
esportazzjoni.

(2) Kull kunsinna sottomessa għandha tiġi eżaminata minn spettur fi żmien erbatax-il jum mid-data ta' l-esportazzjoni skond il-htigiet tal-pajjiż tad-destinazzjoni u jekk l-ispettur ikun sodisfatt illi r-reqwiżiti biex jinħareġ iċ-ċertifikat fitosanitarju jew passaport tal-pjanti jkunu ġew imħarsa, l-ispettur għandu jgħodġ iċ-ċertifikat fitosanitarju jew passaport tal-pjanti skond dan il-Att.

Taqsimu V

Trażżin u Eradikazzjoni ta' Organizmi li Jagħmlu l-Hsara lill-Pjanti

20. (1) Id-Direttur jista', permezz ta' avviż pubblikat fil-Gazzetta, jiddikjara li xi organizzmu li jagħmel il-hsara li jrid jiġi notifikat jekk dan johloq jew x'aktarx johloq xi theddida għall-produzzjoni ta' jew negozju fil-materjal veġetali jew lill-ambjent naturali u li jew ma jkunx hemm tagħrif dwar l-eżistenza tiegħu f'Malta jew jkun jeżisti f'Malta iżda jkun sugġetta għal miżuri biex jinqered jew jiġi mrażżan.

Dikjarazzjoni
rigward
organizmu li
jagħmel il-hsara
li għandu jiġi
notifikat.

(2) Min jokkupa jew ikun is-sid ta' xi art jew fond li fuqu jinsab xi organizzmu li jagħmel il-hsara li jkun identifikat bħala, jew ikun hemm is-suspett li jkun, organizzmu li jagħmel il-hsara li għandu jiġi notifikat għandu minnufuh javża lil xi uffiċċjal tas-Servizz tal-Harsien tal-Pjanti.

21. Id-Direttur jista' b'avviż ippubblikat fil-Gazzetta -

Dikjarazzjoni
dwar arċi
infestati.

(a) jiddikjara kull gżira jew area f'Malta li tkun infestata jew li jkun hemm xi suspett li tkun hekk infestata, minn xi organizzmu li jagħmel il-hsara, bħala zona infestata;

(b) jiddikjara xi art jew fond li huwa infestat jew li jkun hemm suspett li jkun infestat b'xi organizzmu li jagħmel il-hsara, li jkun taht kwarantina;

(c) jippreskrivi miżuri sabiex isir trattament jew disponiment ta' xi materjal veġetali, organiżmi li jagħmlu l-ħsara, ħamrija jew materjal ta' l-ippakkjar u metodi ta' trattament ta' xi mezz ta' ġarr kemm jekk ikunu infestati kif ukoll jekk ma jkunux infestati, sabiex jiġi limitat it-tifrix tal-organiżmu li jagħmel il-ħsara;

(d) jippreskrivi l-perjodu li fih ma jkunx jista' jsir it-thawwil jew thawwil mill-ġdid f'żona jew f'parti minn żona infestata jew f'xi post taħt kwarantina.

Avviż bil-
miktub.

22. Jekk id-Direttur ikun sodisfatt illi organiżmu li jagħmel il-ħsara, li għandu jiġi notifikat, jkun preżenti f'xi post, id-Direttur jista' jordna illi jiġi mogħti avviż bil-miktub lis-sid jew lil min jokkupa dak il-fond u, jekk jidhirlu li jkun meħtieġ għall-ghanijiet ta' dan l-Att, lis-sid jew lil min ikun jokkupa l-artijiet jew fondi fil-viċinanza, li fih jordna lil kull wiehed minnhom, fi żmien speċifikat fl-avviż, biex jieħdu l-miżuri, huma liema huma, fuq il-fondi tagħhom li d-Direttur jikkonsidra xierqa biex tinqered, titrażżan jew tirrestringi l-firxa ta' l-organiżmu li jagħmel il-ħsara li għandu jiġi notifikat.

Ksur.

23. Fil-każ li s-sid tal-post jew min joqghod fih jonqos milli jħares xi termini ta' l-avviż mahruġ skond l-artikoli 17 jew 18, jew ma jkunx jista' jħares, fiż-żmien stipulat, dawk i-termini u javża b'dan lid-Direttur, id-Direttur jista' jawtorizza lis-Servizz tal-Harsien tal-Pjanti biex jidhol fuq l-art jew fil-fondi in kwistjoni u jiehu kwalunkwe miżuri li jkunu xierqa biex jiġu esegwiti il-ħtiġiet ta' l-avviż.

Reviżjonijiet
regolari.

24. Id-Direttur għandu jirrevedi b'mod regolari is-sitwazzjoni fir-rigward ta' xi art li tkun tqiegħdet taħt kwarantina u, meta jkun sodisfatt illi l-organiżmu partikolari li jagħmel il-ħsara jkun ġie eradikat jew jekk wara li jkunu ġew ikkunsidrati ċ-ċirkostanzi kollha relevanti ma jkunx xieraq illi jkomplu jinżammu r-restrizzjonijiet tal-kwarantina fir-rigward ta' l-art jew parti minnha li tkun taħt kwarantina, id-Direttur għandu, permezz ta' avviż ippubblikat fil-Gazzetta u b'avviż imwassal lil dawk is-sidien jew okkupanti kollha ta' dik l-art, jiddikkjara illi minn dik id-data speċifikata kull art identifikata fl-avviż ma għandhiex tibqa' aktar taħt kwarantina.

Kumpens.

25. (1) Mingħajr ħsara għad-disposizzjonijiet tas-subartikolu (2), fejn xi materjal veġetali jew xi materjal ieħor ikun meqrud jew danneġġjat b'xi miżuri li jkunu ttieħdu biex tinqered, titrażżan jew tiġi limitata l-firxa ta' xi organiżmu li jagħmel il-ħsara li għandu jiġi notifikat, il-Ministru jista' jikkompensa lis-sid tal-materjal veġetali jew xi oġġett meqrud jew danneġġat minn flejjes ivvutati għal dak il-ghan mill-Kamra tad-Deputati.

(2) Il-Ministru ma ghandux ikollu l-obbligu li jikkompensa lil xi persuna li tkun sofriet xi telf bhala rizultat ta' xi azzjoni awtorizzata skond dan l-Att jekk din l-azzjoni tkun ittiehdet biex jinstab rimedju ghal sitwazzjoni ikkawzata b'mod totali jew parzjali bhala rizultat ta' negliġenza, nuqqas ta' konformità ma' xi istruzzjonijiet legali jew kontravvenzjoni ta' dan l-Att, minn dik il-persuna.

(3) Il-Ministru ghandu , fuq il-parir tal-Bord, jiddetermina l-ammont ta' kumpens li ghandu jithallas fiċ-ċirkostanzi tal-każ u jista, b'avviż ippubblikat fil-Gazzetta, jippreskrivi l-proċeduri li ghandhom jiġu segwiti sabiex jintalab kumpens.

(4) Kull persuna li titlob kumpens ghal qbid jew qerda taht dan l-Att ta' xi haġa li ma kenitx infestata b'organizmi li jagħmlu l-hsara jew jagħmlu xi deni taht xi forma oħra lill-pjanti jew organizmu li jagħmel il-ġid lill-pjanti li thoss li tkun sofriet xi nuqqas b'deċiżjoni tal-Ministru skond subartikolu (3) tista', tagħmel rikors lill-Qorti Ċivili ta' ġurisdizzjoni kompetenti sabiex jiġi determinat l-interess ta' min jagħmel it-talba fil-propjetà jew xi dritt fuq il-propjetà, l-ammont ta' kumpens li ghandu jiġi imħallas u biex tirċievi l-hlas u jkollha d-dritt li tappella quddiem il-Qorti ta' l-Appell kontra kull deċiżjoni.

Taqsim VI

Infurzar

26. (1) Il-Prim Ministru ghandu jahtar spetturi biex jinfurzaw id-disposizzjonijiet ta' dan l-Att u l-Ministru ghandu jiżgura illi dawn jirċievu tahriġ tekniku adegwat sabiex jkunu jistghu jaqdu dmirijethom kif imiss.

Hatra ta' spetturi.

(2) Il-Ministru jista', bil-parir tad-Direttur, jinnomina uffiċċjali pubbliċi tad-Dipartiment biex ikunu spetturi temporanji biex jinfurzaw id-disposizzjonijiet ta' dan l-Att, flimkien ma' l-ispetturi mahtura skond is-subartikolu (1) u ghandu jiżgura illi dawn jirċievu tahriġ tekniku adegwat sabiex jkunu jistghu jaqdu dmirijethom kif imiss.

27. In konformità mas-setgħat tagħha dwar dhul, tiftix u qbid, skond il-liġi għal dak li għandu x'jaqsam ma' reati kontra d-disposizzjonijiet ta' dan l-Att, il-Pulizija jkollha d-dritt li tkun akkompanjata u assistita minn spetturi mahtura skond id-disposizzjonijiet ta' l-artikolu 26 jew persuni oħra awtorizzati, u d-disposizzjonijiet ta' l-artikolu 10 għandhom japplikaw għal kull haġa maqbuda fl-eżekuzzjoni ta' dawk is-setgħat.

Setgħat ta' dhul, tiftix u qbid.

Qbid.

28. Kull spettur jew persuna awtorizzata li jordna li xi haġa tkun maqbuda, miżmuma, ittrattata, imneħhija jew meqruda, għandu malajr kemm jista' jkun, jinnotifika lis-sid jew lill-persuna li jkollha taht idejha l-pussess, il-kura jew il-kontroll ta' l-oġġett, bil-passi kollha li jkunu tteħdu u r-raġunijiet ta' din l-azzjoni. Jekk, f'ċirkostanzi speċjali, il-qbid ma jkunx sar fil-preżenza ta' din il-persuna, din għandha tiġi mgħarrfa bil-miktub b'dak il-mod li l-Ministru jista' jippreskrivi minn żmien għal żmien.

Taqsimha VII

Reati, Pieni u Proċeduri

Reati.

29. Kull persuna li, kemm personalment jew permezz ta' impjegat jew aġent -

(a) tkabbar, ikollha fil-pussess tagħha, tbiegħ, toffri għall-bejgħ, iġġorr jew tqassam b'xi mod -

(i) xi materjal veġetali, organiżmu li jagħmel il-ħsara, ħamrija, organiżmu li jagħmel il-ġid, materjal ta' l-ippakkjar li hi tkun taf li ġie importat f'Malta bi ksur tad-disposizzjonijiet ta' dan l-Att; jew

(ii) xi haġa infestata b'organiżmu li jagħmel il-ħsara, li jaqa' taht il-kontroll ta' dan l-Att jew sugġett għal xi avviż mahruġ skond l-artikoli 17 jew 18;

(b) li tattakka, tirreżisti, thedded jew tfixkel volontarjament lil xi spettur jew uffiċċjal inkarigat waqt li jkun qed jaqdi l-funzjonijiet tiegħu skond dan l-Att;

(c) li tirrifjuta jew li tittraskura li tobdi xi ordni jew direttiva magħmula b'mod legali jew mogħtija taht dan l-Att;

(d) li, mingħajr l-ebda skuża raġonevoli, tonqos li twieġeb għal xi mistoqsija li tkun saritilha minn xi spettur jew uffiċċjal awtorizzat jew li tipproduċi xi haġa li għandha tiġi prodotta skond dan l-Att;

(e) li tonqos milli thalli li jsir xi tfittix jew spezzjoni skond dan l-Att;

(f) li ma thallix jew li tittanta li ma thallix lil xi persuna oħra li thares l-ordnijiet jew direttivi, milli twieġeb mistoqsijiet, li ma tipproduċix xi haġa jew li ma thallix li jsiru tfittxijiet jew spezzjonijiet skond dan l-Att;

(g) li xjentement jew bi traskuraġni tipprovdi taghrif li jkun falz f'materja partikolari, bl-iskop illi takkwista permess jew ċertifikat jew għat-tharis intenzjonat tal-htigiet ta' dan l-Att;

(h) li tibdel, tiffalsifika bi kwalunkwe mod, thassar jew teqred xi dokument mogħti lil jew mahruġ mid-Direttur skond dan l-Att;

(i) li tikser xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu,

tkun hatja ta' reat taht dan l-Att.

30. (1) Kull persuna li tkun hatja ta' reat skond an l-Att Picni. tista, bla hsara għal kull responsabbiltà oħra li jkollha taht xi liġi oħra, tehel, meta tinstab hatja għall-ewwel darba, multa ta' mhux aktar minn mitejn lira, u jekk tinstab hatja għat-tieni darba jew iktar, multa ta' mhux iktar minn hames mitt lira jew prigunerija għal mhux iktar minn sena jew dik il-multu u l-prigunerija flimkien.

(2) Meta persuna tkun instabet hatja ta' xi reat skond dan l-Att, il-Qorti tista' b'żjeda ta' xi piena li tkun imponiet -

(a) tordna illi kull haġa li tkun intużat biex ġie kommess ir-reat, jew, jekk tkun digà ġiet mibjugħa, il-qliegħ minnha, jiġu maqbudin;

(b) timponi multa addizzjonali ekwivalenti għall-benefiċċju ekonomiku stmat li l-persuna hatja tkun akkwistat mill-għemil tar-reat jew li setgħet akkwistat kieku r-reat baqa' mistur; u, jew

(ċ) thassar kull permess mogħti skond dan l-Att u ma thallix li l-persuna li tkun instabet hatja milli jkollha permess simili għal perjodu ta' mhux aktar minn tliet snin.

31. Il-Ministru responsabbli għall-Ġustizzja jista' permezz ta' regolamenti jippreskrivi illi ċerti reati taht dan l-Att ikunu offiżi skedati għall-iskopijiet ta' l-Att dwar il-Kummissarji għall-Ġustizzja u li jistgħu jinstemgħu minn Kummissarju għall-Ġustizzja bħala ksur tal-liġi. Reati skedati. Kap. 291.

Taqsim VIII

Mixxellanji

Setgħa għall-
għemil ta'
regolamenti.

32. (1) Il-Ministru jista' jagħmel regolamenti, b'mod ġenerali biex jinghata effett lil kull waħda mid-disposizzjonijiet ta' dan l-Att, u b'mod partikolari, jista' jagħmel regolamenti għall-ghanijiet kolla li ġejjin jew għal xi wiehed minnhom:

(a) biex jipprojbixxi jew jirrestringi l-introduzzjoni f'Malta ta' xi materjal veġetali li x'aktarx jdaħħal f'Malta xi organiżmu li jagħmel il-ħsara, kemm jekk ikun diġà preżenti f'Malta kif ukoll jekk ma jkunx, jew li jkollu karatteristiċi noċivi jew mhux mixtieqa jew li jkun jappartjeni għal xi razza mhux mixtieqa;

(b) biex jipprojbixxi jew jirrestringi f'Malta ta' -

(i) xi ħamrija, materjal ta' l-ippakkjar jew xi haġa oħra speċifikata fir-regolamenti li x'aktarx iddaħħal f'Malta xi organiżmu li jagħmel il-ħsara kemm jekk ikun diġà preżenti f'Malta kif ukoll jekk ma jkunx, jew;

(ii) xi organiżmu li jista' jagħmel il-ħsara jew xi organiżmu li hu jew li jkun allegat li jkun organiżmu li jagħmel il-ġid;

(ċ) biex jahtar postijiet ta' dhul u stazzjonijiet tal-kwarantina;

(d) biex jippreskrivi l-proċeduri li għandhom jiġu segwiti minn xi spettur jew minn persuna oħra fl-eżerċizzju tas-setgħat jew fit-thaddim tad-dmirijiet skond dan l-Att;

(e) biex jippreskrivi l-proċeduri li għandhom jiġu addottati għat-trattament ta' xi materjali importati regolati b'dan l-Att u tal-mezzi ta' garr li jgibuhom f'Malta biex jimpedixxi jew jikkontrolla d-dhul f'Malta ta' organiżmi li jagħmlu l-ħsara;

(f) biex jipprovdi għall-kontroll u l-kura ta' materjal veġetali miżmum jew imkabbar b'mod iżolat jew f'kundizzjonijiet ta' kwarantina kemm jekk ikun fi stazzjonijiet ta' kwarantina jew x'imkien ieħor;

(g) biex jitlob il-provvista u l-manutenzjoni ta' dawg il-faċilitajiet skond kif ikun raġonevolment preskritt;

(h) biex jipprovdi għall-ispezzjonar ta' materjal veġetali domestiku, hamrija jew materjal ta' l-ippakkjar għall-esportazzjoni u biex jinhargu ċ-ċertifikati fitosanitarji u passaporti tal-pjanti;

(i) biex jipromwovi l-koordinazzjoni u l-kooperazzjoni bejn id-Dipartimenti tal-Gvern u terzi persuni sabiex jiġu implimentati u infurzati d-disposizzjonijiet ta' dan l-Att;

(j) biex jiġu spezzjonati pjanti fi stadju ta' tkabbir, artijiet jew fondi oħra, u materjal veġetali, inkluż materjal veġetali maħżun jew qiegħed jingarr, sabiex tiġi aċċertata l-preżenza jew l-assenza ta' organiżmi li jagħmlu l-ħsara.

(k) biex jimponi u jiddetermina d-drittijiet ta' hlas jew paġamenti oħra li għandhom x'jaqsmu ma' xi permess jew ċertifikat meħtieġ skond dan l-Att;

(l) biex jippreskrivi l-formoli li għandhom jiġu wżati għall-għanijiet ta' dan l-Att;

(m) biex johroġ, jissospendi jew ihassar permessi u ċertifikati li hemm maħsub għalihom skond dan l-Att;

(n) biex iwettaq, jikkoordina u jinkoraġġixxi r-riċerka fil-qasam tal-ħarsien tal-pjanti;

(o) biex jipromwovi kuxjenza pubblika dwar l-organiżmi li jagħmlu l-ħsara u kif għandha ssir il-prevenzjoni kontrihom, kif għandhom jiġu eradikati u kkontrollati inkluż l-użu ta' organiżmi li jagħmlu l-ġid.

(p) biex jingħaqad ma' awtoritajiet kompetenti f' pajjiżi oħra għal dawk il-materji li għandhom x'jaqsmu mal-ħarsien tal-pjanti;

(q) biex jitwettqu r-responsabbilitajiet tal-Gvern skond il-Konvenzjoni u konvenzjonijiet internazzjonali oħra li għandhom x'jaqsmu mal-ħarsien tal-pjanti;

(r) biex jippreskrivi l-pieni li għandhom jingħataw għal offiżi li jsiru taħt dan l-Att;

(s) biex jistabbilixxi regoli biex jiġu mwaqqfa żoni protetti u regoli għaċ-ċaqliq ta' ċerti pjanti, prodotti veġetali jew oġġetti oħra minn żona protetta, u għaċ-ċaqliq ta' dawn l-affarijiet li joriġinaw minn jew li jiġu trasportati f'dawn iż-żoni

protetti; u

(t) biex jirrikonoxxi pajjiżi u, jew, żoni bhala li jkunu hielsa minn jew esposti ghal organiżmi li jaghmlu l-ħsara u mardiet partikolari.

(2) Regolamenti jew ordnijiet magħmulin taht kull wahda mid-disposizzjonijiet taht dan l-Att jistghu isiru bl-ilsien Ingliż biss.

Ksur ta' dan l-Att.

33. (1) Kull persuna li tinstab hatja ta' reat skond dan l-Att ghandha, wara rikors mid-Direttur wara s-sentenza tiġi ordnata mill-Qorti biex thallas lura lid-Direttur l-ispejjeż li jkunu ntefqu mid-Direttur, jew minn spettur jew uffiċjal iehor awtorizzat, bhala riżultat ta' l-aġir ta' dik il-persuna bi ksur ta' xi ordni jew direttiva magħmula jew mogħtija legalment skond dan l-Att.

Kap. 12.

(2) Ma jkun hemm ebda appell minn deċiżjoni tal-Qorti mogħtija skond is-subartikolu (1). Kull somma mogħtija bhala hlas lura permezz ta' deċiżjoni bħal din tkun tista' tiġi miġbura bhala dejn ċivili, u dik id-deċiżjoni tkun titolu eżekuttiv bl-istess bhallikieku kienet inkluża fost it-titolu eżekuttivi msemmija fl-artikolu 253 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

(3) Bla ħsara għad-disposizzjonijiet tas-subartikolu (1) u (2), is-sid u l-importatur ta' kull materjal veġetali, organiżmu li jagħmel il-ħsara, organiżmu li jagħmel il-ġid, hamrija jew materjal ta' l-ippakkjar li jsir disponiment minnu jew jiġi trattat mis-Servizz tal-Protezzjoni tal-Pjanti jew minn xi persuna oħra awtorizzata skond dan l-Att ikunu responsabbli *in solidum* biex ihallsu lura lill-Gvern l-ispejjeż għad-disponiment jew trattament, liema spejjeż ikunu jistghu jingabru bil-mod provdut fl-artikoli 466 u 467 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Thassir u riżerva.

34. (1) Mingħajr ħsara għad-disposizzjonijiet tas-subartikolu (2), l-Att dwar l-Agrikoltura (Protezzjoni tal-Pjanti) huwa b'dan imħassar, salv illi permessi mahruġa taht dak l-Att għandhom jibqgħu validi sakemm jiskadu jew jiġu revokati.

(2) Ir-Regolamenti ta' l-1998 dwar Drittijiet li jithallsu fil-Protezzjoni ta' Pjanti, magħmulin taht l-Att dwar l-Agrikoltura (Protezzjoni tal-Pjanti) għandhom jibqgħu jsehħu bhallikieku saru taht id-disposizzjonijiet ta' dan l-Att, u jistghu jiġu emendati u revokati skond hekk.

Għanijiet u Raġunijiet.

L-ghan ta' dan l-Abbozz hu biex tiġi introdotta leġislazzjoni aġġornata għal dak li għandu x'jaqsam mal-prevenzjoni tad-dhul f'Malta ta' organiżmi li jagħmlu l-ħsara u mardiet, biex jikkontrolla u jwaqqaf it-tixrid tagħhom, u biex jirrevoka leġislazzjoni eżistenti fuq is-suġġett.

**A BILL
entitled**

AN ACT to prevent the introduction into Malta of plant pests and diseases, to control and check the spread thereof and to provide for other matters incidental and ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

PART I

Preliminary

Short title and commencement.

1. (1) The short title of this Act is Plant Quarantine Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for Agriculture may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Interpretation.

2. In this Act and in any regulations made thereunder, unless the context otherwise requires -

"authorised officer" means an officer of the Police force, Customs Department, Postal Services or Plant Health Service or any other person authorised by the Director in writing to enforce or implement any provision of this Act;

"beneficial organism" means any organism, including fungi, bacteria, viruses, virus-like organisms, invertebrate or other animals, which is declared in writing by the Minister, after consultation with

the Minister responsible for the protection of the environment, to be beneficial to Maltese flora or agricultural production;

"certification scheme" means a method of growing, monitoring and testing of plants to ensure that they are free from particular pests and diseases;

"Convention" means the International Plant Protection Convention, signed in Rome on the 6th December 1951 as amended or with any other convention prescribed by the Minister from time to time;

"conveyance" means any vessel, aircraft, hovercraft, train, vehicle, cart, container, animal or other thing which can convey plant material, plant pests, beneficial organisms or soil from one place to another;

"Department" means the Department responsible for plant health;

"designated point of entry" means a port, airport, post office or other place designated by the Minister as a place where the importation of plant material is permitted, and includes a freeport as defined in the Malta Freeports Act;

Cap. 334.

"Director" means the Director responsible for the Department and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"importer" includes anyone who, whether as owner, consignor, consignee, agent, broker or otherwise, is in possession of or in any way entitled to the custody of any plant material, plant pest, beneficial organism, soil or packaging landed or likely to be landed in Malta from another country;

"inspector" means any inspector appointed under article 26 and any other officer of the Plant Health Service or other person designated as such in writing by the Director from time to time;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for Agriculture, and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"packing material" means any material used to pack, contain or keep plant material, beneficial organisms, soils or plant pests;

"phytosanitary certificate" means a certificate relating to the phytosanitary condition and origin of a consignment of plants and, or, plant products prepared and issued in accordance with the Convention;

"plant material" includes any plant, plant part, propagative material, or plant product which can be affected by, or harbour, a plant pest;

"plant pest" means any form of plant or animal life or any pathogenic agent, other than a beneficial organism, capable of directly or indirectly injuring any plant material or beneficial organism, and includes genetically modified plant pests and weeds;

"plant product" means any unmanufactured material of plant origin and those manufactured products which, by their nature or that of their processing, may create a risk of plant pests spreading;

"planting" means any operation whereby plants are placed in such a way as to ensure their growth, reproduction or propagation;

"plants" means living plants and living parts thereof, including seeds, fruits and vegetables (except frozen), underground parts of plants, cut flowers, branches, trees with foliage and tissue cultures;

"propagative material" means any living plant or part of a living plant, used or intended for propagation, including a seed, corm, cutting, bud, rhizome or plant tissue culture;

"quarantine station" means an official station designated by the Minister as a place where plant material may be confined for phytosanitary inspection, observation, testing or research;

"soil" means any medium capable of sustaining plant life including earth, water, compost or clay but excluding any medium which is sterile or incapable of harbouring or transmitting plant pests;

"treatment" means any appropriate process, including the use of chemicals, heat or low pressure, for ensuring the removal, sterilisation or killing of a plant pest.

PART II

Administration

3. (1) The Director shall be responsible for the Plant Health Service and to administer and enforce the provisions of this Act. Plant Health Service.

(2) The Plant Health Service shall -

(a) inspect growing plants, areas under cultivation, and plants and plant products in storage or locally in transit, in order to report the existence, outbreak and spread of plant pests and to control plant pests;

(b) in respect of consignments of plant materials moving in international traffic -

(i) inspect the said consignments and, where appropriate, inspect consignments of other articles and commodities moving in international traffic under conditions where they may act incidentally as carriers of plant pests;

(ii) inspect and supervise storage and transport facilities of any kind, particularly with the object of preventing the dissemination of plant pests across national boundaries;

(iii) disinfest or disinfect consignments of plants and plant products, as well as their containers, packaging, storage places or transport facilities;

(c) determine the percentage of inspection checks to be carried out;

(d) issue phytosanitary certificates or plant passports;

(e) authorise nurseries to issue plant passports in accordance with regulations prescribed under this Act;

(f) periodically update and disseminate lists of plant material, plant pests and beneficial organisms the importation of which into Malta is prohibited or restricted;

(g) distribute information within Malta about pests of plants and plant products and how to prevent and control them;

- (h) promote integrated pest management and control in Malta;
- (i) conduct research and surveys in the field of plant protection;
- (j) administer and enforce the provisions of this Act; and
- (k) attend to such matters as the Director may prescribe.

Plant Protection Board.

4. (1) The Minister shall appoint a Plant Protection Board, hereinafter referred to as "the Board", which shall include representatives of the Director, the Department responsible for the protection of the environment and the Customs Department.

(2) The Board shall regularly review the state of plant quarantine in Malta on the formulation of policies in this regard, and advise the Minister on any matters with which this Act is concerned, particularly with respect to:

- (a) the promulgation of regulations under this Act and matters arising from the application of any such regulations;
- (b) the declaration of any plant pest as a notifiable plant pest pursuant to article 20;
- (c) the phytosanitary implications of importing any plant material, plant products, pests, beneficial organisms or soil;
- (d) the management, operation and requirements of the Plant Health Service; and
- (e) the diagnosis, detection and identification of particular pests and diseases.

Plant Certification Schemes.

5. The Director may establish Plant Certification Schemes which shall follow international standards and shall be administered and updated by the Plant Health Service on the advice of the Board.

PART III

Importation

Prohibition to import.

6. No person shall import into Malta any plant material, plant pest, beneficial organism, soil or packaging material except in accordance with this Act.

7. (1) Subject to the provisions of subarticle (2), any plant material, plant pest, beneficial organism, soil or packaging material shall only be imported into Malta through a designated point of entry and upon importation shall be declared and submitted together with the prescribed permits and certificates for examination by an inspector.

Permits and certificates.

(2) The Minister may, after consultation with the Board, by regulation or notice published in the Gazette exempt certain classes of plant material from the requirement to be declared on importation.

(3) The Director may, after consultation with the Board, by notice issued in the Gazette establish the details of the conditions under which and, or, treatments that any plant material, originating from such countries and, or, zones, as may be specified in the notice, has to be subjected to prior to importation.

8. The person in charge of any conveyance transporting or storing anything required to be declared under article 7(1) shall make the conveyance and its contents available for inspection and treatment by an authorised officer in accordance with this Act as soon as reasonably possible after arrival in Malta or at any other time reasonably directed by an inspector; who shall determine the place of inspection.

Inspection.

9. Any person in Malta who receives any plant material, plant pest, beneficial organism or soil from outside Malta whether or not that person consented to it being dispatched, shall, on receipt, immediately notify an inspector and carry out the inspector's instructions regarding its destruction, disposal or treatment to the satisfaction of the inspector.

Notification to inspector.

10. Anything imported into Malta, in transit through Malta or moved from one part of Malta to another, in contravention of this Act, together with any container used to transport it or other thing suspected of harbouring any plant pest, may be seized by the Police and may be destroyed, disposed of, treated or otherwise dealt with as an inspector or authorised person thinks fit, subject to the provisions of this Act.

Seizure of plant harbouring a plant pest.

11. (1) The Director may, by notice published in the Gazette, require that any class of plant material, plant pest, beneficial organism, soil or packaging shall not be imported into Malta from such countries or zones, as may be specified in the notice, except with an import permit and in strict compliance with the terms of the permit.

Import permit.

(2) The Director may -

(a) issue, refuse to issue or cancel an import permit; or

(b) prescribe in any import permit such terms and conditions as the Director deems appropriate and at any time, whether before or after importation, vary or add to the terms or conditions.

Phytosanitary
certificate or
plant passport.

12. The Director may, by notice published in the Gazette, require that any class of plant material, as shall be specified in the notice, shall not be imported except with a phytosanitary certificate issued or a plant passport recognised by the plant protection organisation of the exporting country in accordance with the Convention and which conforms in all material respects with either the model phytosanitary certificate for export or for re-export, as the case may be, in the annex to the Convention.

Prohibition or
restriction.

13. (1) Notwithstanding anything contained in this Act, the Director may, after consultation with the Board, by notice in the Gazette, prohibit or restrict the introduction, sale, cultivation, propagation or movement of any plant material, plant pest, beneficial organism, soil, packaging or any other thing capable of harbouring or spreading a plant pest.

(2) Any notice given under subarticle (1) shall expire six months after the date of publication in the Gazette, unless it is renewed.

Making of rules.

14. The Minister may, acting on the advice of the Board, make regulations establishing rules for the marketing of vegetative propagating and planting material and may by such regulations establish the conditions for the grant of permits for the importation and transport of any plant material, plant pest or other organisms for the purposes of scientific research or otherwise, subject to such terms and conditions as may be established in or referred to in the regulations to safeguard public health, agriculture and, or, the environment.

Assistance.

15. (1) All officers of Customs and of the Post Office shall assist the Department in preventing the importation into Malta of anything contrary to this Act and in so doing may exercise all the powers conferred upon them by or under the Customs Ordinance and the Post Office Act or any law replacing the same.

Cap. 37.

Cap. 254.

(2) Any officer of Customs or of the Post Office who becomes aware of the importation of any plant material, plant pest, beneficial organism, soil, packaging or other thing regulated by this Act, other than things which are not required to be declared pursuant to article 7(2), shall immediately notify an inspector or other designated officer

of the Plant Health Service.

16. (1) Subject to the provisions of subarticle (2), no plant material, plant pest, soil or packing materials under examination or liable to be examined by an inspector shall be moved or handled in any way, nor shall any container be opened, except in accordance with the directions of an inspector.

Moving or handling of any container.

(2) An officer of Customs or of the Post Office may move and handle a thing referred to in subsection (1) to the extent necessary for the proper performance of that officer's duties provided that the enforcement and attainment of the objects of this Act are not prejudiced.

17. The Director may require any person involved in propagating, storing, importing, exporting, producing or otherwise trading in plant material to register with the Plant Health Service and comply with such requirements as the Director may reasonably require from time to time.

Registration with the Plant Health Service.

18. Any person who has imported any plant material, plant pest, beneficial organism, soil or packaging shall, on demand by an inspector, allow the imported things to be examined and samples to be taken by an inspector at any reasonable time to enable the inspector to determine whether or not this Act and any permit issued under it, has been complied with and whether or not further steps should be taken.

Examination and sampling.

PART IV

Export Control

19. (1) Any person intending to export a consignment of plants or plant products to another country shall submit the consignment to the Plant Health Service for pre-export examination.

Pre-export examination.

(2) Each consignment submitted shall be examined by an inspector within fourteen days of the date of export in accordance with the requirements of the country of destination and if the inspector is satisfied that the requirements for the issue of a phytosanitary certificate or plant passport have been met, the inspector shall issue a phytosanitary certificate or plant passport in accordance with this Act.

PART V

Containment and Eradication of Plant Pests

Declaration regarding notifiable plant pest.

20. (1) The Director may, by notice published in the Gazette, declare any plant pest to be a notifiable plant pest if it presents, or is likely to present, a threat to the production of or trade in plant materials or to the natural environment and if it is either not known to be established in Malta or is established in Malta but is the subject of measures for its eradication or containment.

(2) The occupier or owner of any land or premises on which a plant pest is found which is identified as, or is suspected to be, a notifiable plant pest shall immediately notify an officer of the Plant Health Service.

Declaration regarding infested areas.

21. The Director may, by notice published in the Gazette -

(a) declare any island or area in Malta which is infested or is suspected of being infested with any plant pest, to be an infested area;

(b) declare any land or premises which is infested or is suspected of being infested with any plant pest, to be under quarantine;

(c) prescribe any measures for the treatment or disposal of plant material, plant pests, soil or packaging, and the treatment of conveyances, whether or not they have been found to be infested, in order to limit the spread of the plant pest;

(d) prescribe the period within which it shall be unlawful to plant or replant the whole or part of any infested place or area under quarantine.

Written notice.

22. If the Director is satisfied that a notifiable plant pest is present at any place, the Director may cause a written notice to be served on the owner or occupier of such place and if he deems it appropriate for the purposes of this Act, on the owner or occupier of any land or premises in the vicinity, ordering each of them, within a period specified in the notice, to take whatever measures on their land the Director considers appropriate to eradicate, contain or restrict the spreading of the notifiable plant pest.

Non-compliance.

23. If an owner or occupier either cannot comply with any term of a notice issued under articles 17 or 18 or is unable to comply within the stipulated period and in either case advises the Director accordingly, the Director may authorise the Plant Health Service to

enter upon the land or premises in question and to take whatever measures may be appropriate to carry out the requirements of the notice.

24. The Director shall regularly review the situation in respect of any land placed under quarantine and, when he is satisfied that either the relevant plant pest has been eradicated or that after consideration of all relevant circumstances it would be inappropriate to continue to maintain the quarantine restrictions in respect of part or all of the land under quarantine, the Director shall, by notice published in the Gazette and by notice served on all affected owners or occupiers of the land, declare that from a specified date any land identified in the notice shall no longer be under quarantine. Regular reviews.

25. (1) Subject to the provisions of subarticle (2), where any plant material or other thing is destroyed or harmed by any measures taken to eradicate, contain or limit the spread of a notifiable plant pest, the Minister may compensate the owner of the plant material or item destroyed or harmed from monies voted for that purpose by the House of Representatives. Compensation.

(2) The Minister shall not be obliged to compensate any person who has suffered loss as a result of action authorised under this Act if the action was taken to remedy a situation caused wholly or partially by that person's negligence, failure to comply with lawful instructions or contravention of this Act.

(3) The Minister shall, on the advice of the Board, determine the amount of compensation payable in the circumstances of the case and may, by notice published in the Gazette, prescribe the procedures to be followed to claim compensation.

(4) Any person claiming compensation for any seizure or destruction under this Act of anything which was not infested with plant pests or otherwise injurious to plants or beneficial organisms who is aggrieved by a decision of the Minister under subarticle (3) may, make application to the Civil Court of competent jurisdiction, request a determination of the claimant's interest in or right over the property, the amount of compensation payable and to obtain payment and shall have the right to appeal to the Court of Appeal against any such determination.

PART VI

Enforcement

26. (1) The Prime Minister shall appoint inspectors to Appointment of inspectors.

enforce the provisions of this Act and the Minister shall ensure that they receive adequate technical training to enable them to properly perform their duties.

(2) The Minister may, on the advice of the Director, designate public officers in the Department to be temporary inspectors to enforce the provisions of this Act, together with the inspectors appointed under subarticle (1), and shall ensure that they receive adequate technical training to enable them to properly perform their duties.

Powers of entry,
search and
seizure.

27. In pursuance of their powers of entry, search and seizure according to law with respect to offences contrary to the provisions of this Act, the Police shall have the right to be accompanied and assisted by inspectors appointed under the provisions of article 26 or by other authorised persons, and the provisions of article 10 shall apply to anything seized in the execution of such powers.

Seizure.

28. Any inspector or authorised officer who causes anything to be seized, detained, treated, disposed of or destroyed shall, as soon as practicable, notify the owner or person having possession, care or control of the thing, of the steps taken and the reasons for them. If, in exceptional circumstances, the seizure is not made in the presence of such person, they shall be notified in writing in such manner as the Minister may from time to time prescribe.

PART VII

Offences, Penalties and Proceedings

Offences.

29. Any person who, either personally or through an employee or agent -

(a) grows, possesses, sells, offers for sale, transports or distributes in any manner -

(i) any plant material, plant pest, soil, beneficial organism or packaging in the knowledge that it has been imported into Malta contrary to the provisions of this Act;
or

(ii) anything infested with a plant pest controlled under this Act or subject to a notice issued under articles 17 or 18;

(b) assaults, resists, threatens or wilfully obstructs any inspector or authorised officer in the execution of his functions

under this Act;

(c) refuses or neglects to comply with any order or direction lawfully made or given under this Act;

(d) without reasonable excuse fails to answer any question asked by an inspector or authorised officer or to produce anything required to be produced;

(e) fails to allow a search or inspection authorised under this Act;

(f) prevents or attempts to prevent another person from complying with orders or directions, from answering questions, from producing any thing or from allowing searches or inspections under this Act;

(g) knowingly or recklessly provides information which is false in a material particular, for the purpose of obtaining any permit or certificate or for the purported compliance with any requirements of this Act;

(h) alters, forges, counterfeits, defaces or destroys any document presented to or issued by the Director under this Act;
or

(i) contravenes any of the provisions of this Act or of any regulation made thereunder,

shall be guilty of an offence under this Act.

30. (1) Any person guilty of an offence under this Act shall, Penalties. without prejudice to any other liability under any other law, on a first conviction, be liable to a fine (*multa*) not exceeding two hundred liri, and on a second or subsequent conviction to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) Where a person is convicted of an offence under this Act the court may, in addition to any other penalty that it may impose -

(a) order that anything used in the commission of the offence or, if already sold, the proceeds thereof, shall be forfeited;

(b) impose an additional fine equivalent to the estimated economic benefit which the convicted person derived from the commission of the offence or would have derived had the

offence remained undetected; and, or

(c) revoke any permit granted under this Act and debar the person convicted from holding another such permit for a period not exceeding three years.

Scheduled offences.

Cap. 291.

31. The Minister responsible for Justice may by regulations prescribe that certain offences under this Act shall be scheduled offences for the purposes of the Commissioners for Justice Act and may be tried by a Commissioner for Justice as an infringement.

PART VIII

Miscellaneous

Power to make regulations.

32. (1) The Minister may make regulations generally to give effect to any of the provisions of this Act, and, in particular, may make regulations for all or any of the following purposes:

(a) prohibiting or restricting the introduction into Malta of any plant material likely to introduce any plant pest into Malta, whether or not already present in Malta, or as having noxious or undesirable characteristics, or as being of an undesirable strain;

(b) prohibiting or restricting the introduction into Malta of any -

(i) soil, packaging or other thing specified in the regulations as being likely to introduce any plant pest into Malta, whether or not already present in Malta; or

(ii) plant pest or organism which is or is alleged to be a beneficial organism;

(c) designating points of entry and quarantine stations;

(d) prescribing procedures to be followed by any inspector or other person in the exercise of powers or the performance of obligations under this Act;

(e) prescribing procedures to be adopted for the treatment of imported materials regulated by this Act and of the conveyances bringing them to Malta to prevent or control the introduction of plant pests into Malta;

(f) providing for the control and care of plant material kept or grown in isolation or in quarantine conditions whether in

quarantine stations or elsewhere;

(g) requiring the provision and maintenance of such facilities as may reasonably be prescribed;

(h) providing for the inspection of domestic plant material, soil or packaging for export and the issue of appropriate phytosanitary certificates or plant passports;

(i) promoting co-ordination and co-operation among government departments and third parties in implementing and enforcing the provisions of this Act;

(j) inspecting growing plants, lands or other premises and plant material, including plant material in storage or being transported, to ascertain the presence or absence of plant pests;

(k) imposing and determining fees and other payments in relation to any permit or certificate required under this Act;

(l) prescribing forms to be used for the purposes of this Act;

(m) for the issuing, suspension and revocation of permits and certificates provided for under this Act;

(n) for carrying out, co-ordinating and encouraging research in the field of plant protection;

(o) for promoting public awareness of plant pests and their prevention, eradication and control including the use of beneficial organisms;

(p) liaising with competent authorities in other countries in plant protection matters;

(q) for the carrying out of the responsibilities of the Government under the Convention and any other international conventions relating to plant protection;

(r) prescribing punishments for offences under this Act;

(s) establishing rules for the setting up of protected zones and rules for the movement of certain plants, plant products or other objects through a protected zone, and for movements of such items originating in and moving within such protected zones; and

(t) recognising countries and, or, zones as being free from or exposed to particular pests and diseases.

(2) Any regulations and orders made under any of the provisions of this Act may be made in the English language only.

Non-compliance with this Act.

33. (1) Any person found guilty of an offence under this Act shall, upon an application by the Director after the sentence, be ordered by the Court to reimburse the Director for any expenses incurred by the Director, or by an inspector or other authorised officer, on account of that person having acted contrary to any order or instruction lawfully made or given under this Act.

Cap. 12.

(2) No appeal shall lie from a decision of the Court under subarticle (1). Any sum awarded by way of reimbursement by such a decision shall be recoverable as a civil debt, and that decision shall be an executive title in like manner as if it were included among the executive titles contained in article 253 of the Code of Organization and Civil Procedure.

Cap. 12.

(3) Without prejudice to the provisions of subarticles (1) and (2), the owner and importer of any plant material, plant pest, beneficial organism, soil or packaging which is disposed of or treated by the Plant Health Service or any other authorised person under this Act shall be jointly and severally liable to reimburse the Government for the costs of such disposal or treatment, which costs shall be recoverable in the manner provided in articles 466 and 467 of the Code of Organization and Civil Procedure.

Repeals and savings. Cap. 195.

34. (1) Saving the provisions of subarticle (2), the Agriculture (Plant Protection) Act, is hereby repealed, save that any permits issued under that Act shall remain valid until they expire or are otherwise revoked.

(2) The Plant Protection (Fees) Regulations, 1998 made under the Agriculture (Plant Protection) Act shall continue in force as if made under the provisions of this Act, and may be amended and revoked accordingly.

Objects and Reasons

The object of this Bill is to introduce updated legislation regarding the prevention of the introduction into Malta of plant pests and diseases, to control and check the spread thereof, and to repeal existing legislation on the subject-matter.

