



MONTSERRAT

## CHAPTER 9.02

# PLANT PROTECTION ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### PLANT PROTECTION ACT

Act 11 of 1941 .. in force 29 December 1941

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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### PLANT PROTECTION REGULATIONS – Section 15

S.R.O.s 2/1951, 12/1952 and 22/1956

Amended by S.R.O. 14/1966 .. in force 17 June 1966

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**CHAPTER 9.02**

**PLANT PROTECTION ACT**

**ARRANGEMENT OF SECTIONS**

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**CHAPTER 9.02**

**PLANT PROTECTION ACT**

*(Acts 11 of 1941 and 9 of 2011)*

**Commencement**

*[29 December 1941]*

**Short title**

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

**Interpretation**

2. In this Act—

“**animal organism**” means any animal organism in whatever stage of existence such animal organism may be;

“**disease**” means any abnormal conditions of plants, communicable or believed to be communicable by the transfer of a causative agent or by the propagation of the affected plants, which the Governor may by proclamation from time to time declare to be a disease within the meaning of this Act;

“**diseased**” means affected with disease;

“**disinfection**” means the utilization of any substance or process designed to prevent, eliminate or reduce any disease or pest with which plants or parts of plants may be affected;

“**import**”, with its grammatical variations and cognate expressions, means to bring or cause to be brought within Montserrat or the waters thereof;

“**land**” includes plantation and nursery;

“**notifiable disease**” means any disease which the Governor may by proclamation, from time to time, declare to be a notifiable disease within the meaning of this Act;

“**notifiable pest**” means any pest which the Governor may, by proclamation, from time to time, declare to be a notifiable pest within the meaning of this Act;

“**nursery**” means any land or place whereon is grown or kept any plant intended for sale or distribution;

“**occupier**”, in relation to any land or building, means the person in actual occupation thereof or, if there is no such person, the owner of such land or building;

“**owner**” means the person who is for the time being entitled to receive the rent of any land, or who, if the same were let to a tenant at a rack rent, would be entitled to receive such rent;

“**package**” includes any container, box, covering, wrapper, or anything whatsoever in which plants are, or have been, imported, kept or conveyed;

“**pest**” means any parasitical, epiphytal or other animal or vegetable organism inimical to the growth or existence of living plants or injurious to plant products, and any agent capable of producing a communicable disease of plants, which the Governor may, by proclamation, from time to time declare to be a pest within the meaning of this Act;

“**plant**” includes any tree, shrub, herb or vegetable; any cutting, bulb, seed, bud or graft; and the fruit or any other part of any plant; and the whole or any part of any growing, dying, or dead plant, including any pod, husk or skin;

“**Plant Protection Officer**” means the Chief Plant Protection Officer and any person or persons appointed as a Plant Protection Officer under this Act;

“**Plant Quarantine Committee**” means the Committee of Management of the Plant Quarantine Station, Trinidad, established under section 16 of the Plant Protection Act of Trinidad and Tobago;

“**vegetable organism**” means any vegetable organism in whatever stage of existence such organism may be.

### **Appointment of Officers**

3. The Governor or Deputy Governor may appoint an appropriately qualified person as Chief Plant Protection Officer, and such Plant Protection Officers as may be necessary for the purposes of this Act.

### **Power to make proclamations**

4. The Governor may by proclamation—

- (a) prohibit, control or restrict the transport of any diseased plant, or of any plant appearing to be affected with any pest or disease, or of anything whatever, whether of a nature similar to a plant or not, likely to infect any plant with any pest or disease;
- (b) prohibit, control or restrict the cultivation and harvesting either throughout Montserrat, or in any specified area thereof, of any plant when, in the opinion of the Governor, such measures are necessary for the control or eradication of any pest or disease;
- (c) direct, authorise or control the quarantine of infected areas;

- (d) direct and specify the precautions to be taken to prevent the spread of plant diseases or pests;
- (e) authorise or require the inspection before import or export of any plant or article likely to infect any plant with any pest or disease, and provide for the grant of a certificate as to the results of any such inspection;
- (f) direct or authorise the disinfection or treatment of any plant and of any article likely to infect any plant with a pest or disease;
- (g) authorise the immediate destruction without compensation of any plant or article which on inspection appears to be infested or infected with any pest or disease;
- (h) direct or authorise the detention of classes of imported plants in any specified place and specify the precautions to be observed during such detention;
- (i) require plants, or any class or classes of plants, to be accompanied on importation by a plant certificate issued by a competent person or persons.

### **Occupier to give notice of notifiable disease or pest**

**5. (1)** The occupier of any land, on which any notifiable disease or notifiable pest occurs, shall as soon as practicable give notice thereof to a Plant Protection Officer.

**(2)** Any occupier who fails to give such notice shall be liable on summary conviction to a fine of \$240.

**(3)** In any proceedings under this section it shall be no defence that the occupier was not aware of the occurrence of such disease or pest unless it shall be shown to the satisfaction of the Court that he and the persons employed by him on the land took all reasonable steps to discover such occurrence.

### **Power of entry**

**6. (1)** Subject to any regulations made under this Act, a Plant Protection Officer may at all reasonable times enter without notice (with or without assistance as may to him seem fit) upon any land, or into any building or part of any building, not being a dwelling house, for the purpose of searching for and examining any animal or vegetable organism, or any disease-infected or pest-infested plant, or any soil, manure, straw or package, and may remain thereon or therein so long as may be reasonably necessary for any such purpose.

**(2)** Before entering on any such land or building under the provisions of this section the Plant Protection Officer shall inform the occupier, if present at the time, of his intention so to do.

### **Procedure for eradication of diseases and pests**

7. A Plant Protection Officer may, by notice in writing in the form in the Schedule served upon the occupier of any land, require him to take at his own expense and within a time specified in the notice, running from the date of service, all such measures as may be necessary for the eradication or the prevention of the spread of any disease or pest. Such measures may include the total destruction if necessary of any plant whether infected by any disease or infested with any pest or not.

### **Non-compliance with order**

8. (1) If an occupier fails to take any measure which by a notice under the preceding section he is required to take, a Plant Protection Officer may, on the expiration of the time specified in such notice, enter upon the land and cause such measures to be taken.

(2) Any expenses incurred by the Plant Protection Officer in connection with such measures shall be paid by the person in default:

Provided that, it shall be lawful for the Governor to dispense with the payment of such expenses in cases where, owing to the person in default being in needy circumstances, or for any other reason, the Governor thinks fit so to do.

(3) The expenses so incurred shall be recoverable as a civil debt by the Plant Protection Officers.

### **Quarantine of nurseries**

9. (1) Where any Plant Protection Officer finds any nursery or any part of any nursery to be affected by any disease or pest he may by notice in writing served upon the occupier declare such nursery or part thereof to be under quarantine.

(2) The notice shall remain in force until a Plant Protection Officer shall have given the owner or occupier of the nursery affected a certificate in writing that the nursery is free from diseases and pests.

(3) While the notice is in force no person shall remove, or allow or cause to be removed any plant or any soil, manure, packages, or any vegetable or animal organism, from the area under quarantine.

(4) The occupier of a nursery having his nursery or any part thereof thus placed under quarantine may, upon application to a Plant Protection Officer, have his nursery examined free of charge to determine whether or not the disease or pest has been eradicated.

### **Service of notice in absence of occupier**

10. If there is no person in actual occupation of any land, or if the occupier cannot be found, service of any notice under this Act may be made by affixing the same in some conspicuous place on the land and such affixing shall be deemed to be good and sufficient service.

## Compensation

**11.** It shall be lawful for the Governor, out of money voted for that purpose by the Legislative Assembly, to make grants by way of compensation to occupiers and to owners (according to their respective interests) in respect of healthy plants destroyed in order to prevent the increase of any disease or pest or the spread of any disease or pest into adjoining lands. (*Amended by Act 9 of 2011*)

## Informality not to invalidate proceedings

**12.** Proceedings taken under this Act shall not be rendered invalid by reason of the informality of any order or notice made or given except as against any person prejudiced by such informality.

## Offences

**13.** Every person who—

- (a) in any manner obstructs or impedes any person in the execution of any of the powers conferred by this Act or by regulations or proclamations made thereunder; or
- (b) knowingly introduces any disease or pest into any cultivated or uncultivated land or to any plant whether cultivated or not cultivated; or
- (c) fails to comply with or acts in contravention of any of the provisions of this Act or any regulations or proclamations made thereunder or any order given in pursuance thereof,

when no other penalty is provided in this Act, shall be guilty of an offence and shall, for every such offence, be liable on summary conviction to a fine of \$96 or to imprisonment for a term not exceeding three months.

## Legal proceedings

**14.** All proceedings under this Act shall be taken in the name of the Chief Plant Protection Officer and shall not be deemed to affect any civil liability which may exist independently thereof.

## Regulations

**15.** The Governor acting on the advice of Cabinet may make regulations for all or any of the following purposes—

- (a) for prohibiting, restricting or regulating the importation into Montserrat of—
  - (i) any plant, vegetable organism or package;
  - (ii) any article or class of articles, whether of a nature similar to plants or not;
  - (iii) any animal or animal organism,

likely to cause infection by any animal or vegetable organism or other agent which is or is believed to be inimical to the growth of plants;

- (b) for requiring that any plant, or any other thing mentioned in paragraph (a) shall only be imported into Montserrat on the advice of and with the concurrence of the Plant Quarantine Committee previously obtained and subject to such conditions as the Committee may impose;
- (c) for authorising or requiring the inspection before import of any plant or article likely to infect any plant with any animal organism or vegetable organism or other agent which is or is believed to be inimical to the growth of plants;
- (d) for authorising or requiring the disinfection, treatment, destruction and disposal without compensation of any diseased plant or of any plant appearing to be infected with any animal or vegetable organism or other agent which is or is believed to be inimical to the growth of plants, or of anything whatever, whether of a nature similar to a plant or not, likely to infect any plant with any animal or vegetable organism or other agent which is or is believed to be inimical to the growth of plants;
- (e) for directing or authorizing the disinfection, treatment and fumigation of buildings, vehicles, vessels or aircraft used or suspected of having been used for the storage or conveyance of anything likely to infect a plant with any pest or disease; and for prohibiting any such vessels or aircraft from approaching or remaining within a distance of two miles from any point in Montserrat;
- (f) for prohibiting the importation of any plant or plants except at specified ports or places of entry;
- (g) for directing or authorising the detention of any imported plant or plants in any specified place and prescribing the precautions to be observed during such detention;
- (h) for requiring the importation of any plant or plants to be accompanied by a plant certificate issued by an authorised person or persons;
- (i) for authorising or requiring the issue and revocation of licences for and the inspection of nurseries in which plants are reared for the purposes of sale, and the imposition of fees for such licences, and the regulation of the sale or removal of plants, whether reared in nurseries or not;
- (j) for regulating or prohibiting the removal from any land or building, or the transference or conveyance from any part of Montserrat to any other part thereof, of any plant, soil,

manure, straw, package, vegetable organism, or animal organism;

- (k) for fixing the payment of fees for disinfection or treatment or any other services rendered by officers under this Act;
- (l) for defining the duties of Plant Protection Officers under this Act;
- (m) for regulating the manner in which applications are to be made to a Plant Protection Officer; and
- (n) generally for carrying into effect the provisions of this Act.

*(Amended by Act 9 of 2011)*

### **Document to be evidence**

**16.** Every document purporting to be an instrument issued by the Plant Quarantine Committee and signed by the Chairman of the Committee shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

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**SCHEDULE**

*(Section 7)*

To .....

Nursery }  
Plantation }  
Land }

Situate at .....

In pursuance of the powers vested in me by section 7 of the Plant Protection Act, I hereby direct you within ..... days of the service upon you of this notice to do the following work on your

Nursery }  
Plantation }  
Land }

viz—

*Plant Protection Officer.*

(Date)

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**PLANT PROTECTION REGULATIONS – SECTION 15**

*(S.R.O.s 2/1951, 12/1952, 22/1956 and 14/1966)*

**Short title**

1. These Regulations may be cited as the Plant Protection Regulations.

**Prohibition of importation**

2. It is hereby prohibited absolutely to import into Montserrat the articles mentioned in the first column of the First Schedule from the countries and places mentioned in the second column of the said Schedule.

**Restriction of importation**

3. It is hereby prohibited to import into Montserrat the articles mentioned in the first column of the Second Schedule from the countries and places mentioned in the third column of the said Schedule except upon the conditions specified in the second column of the said Schedule.

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## FIRST SCHEDULE

## ARTICLES ABSOLUTELY PROHIBITED

<i>Articles prohibited from importation</i>	<i>Countries and places from which importation prohibited</i>
(a) The fruit of the banana	All countries and places except the United States of America, Dominica, and the other Colonies of the Leeward Islands.
(b) All fruit and plants of the citrus family and parts of such fruit and plants	Cuba, Haiti, Santo Domingo, Jamaica, the United States of America and the Commonwealth of Australia except the State of Tasmania.
(c) All other fruits except— (i) plantains (ii) nuts (iii) dried, canned, candied or other processed fruits	The Commonwealth of Australia except the State of Tasmania, the Bahamas, Bermuda, British Guiana and all other countries and places except the British Isles, Canada, the British West Indies and the United States of America.
(d) All vegetables except— (i) onions (ii) Irish (English) potatoes (iii) canned or processed vegetables	ditto.
(e) Cotton seed, cotton seed hulls, cake and meal and other cotton seed products, seed cotton, cotton lint and any part of the cotton plant and any other malvaceous plant and any part thereof	Cuba, Haiti, Santo Domingo and Venezuela.
(f) Fertilizers and stock feeds containing cotton seed meal	ditto.
(g) Pillows and bedding material containing seed cotton, cotton lint or any part of the cotton plant	ditto.
(h) All agricultural produce in bags	ditto.

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|-----|---|---|
| (i) | Second-hand empty bags and baling material  | ditto.  |
| (j) | Packages, containers and coverings which contain or are reasonably suspected to have contained any of the articles specified in item (e) of this Schedule   | ditto.  |
| (k) | Personal baggage and effects of any description which contain or are reasonably suspected to have contained any of the articles specified in item (e) of this Schedule  | ditto.  |
| (l) | Personal baggage and effects of any description which have been in contact with or in close proximity to other baggage, cargo, produce or articles of any description infected or reasonably suspected to be infected with the cotton boll weevil ( <i>Anthonomus grandis Boheman</i> ) | All countries and places.   |
| (m) | Articles which have formed part of the cargo of a ship another part of the cargo of which has been found to be infected or is reasonably suspected to be infected with the cotton boll weevil ( <i>Anthonomus grandis Boheman</i> )   | ditto.  |
| (n) | Soil  | Bahamas, Bermuda, British Guiana, Trinidad and all other countries and places except the British Isles, Canada, the other islands of the British West Indies not in this paragraph mentioned, and the United States of America. |
| (o) | Plants and parts of plants of "Maga," ( <i>Thespesia grandiflora PDC</i> ).   | From all countries and places.  |
| (p) | Sunflower seeds   | All countries and places in South America.  |

- |  |                               |
|--|-------------------------------|
| <p>(q) All fruit and vegetables and any parts thereof except</p> <ul style="list-style-type: none"><li>(i) canned fruit and vegetables;</li><li>(ii) fruit and vegetables which have been dried, candied, preserved or otherwise processed</li></ul> | The United States of America. |
| <p>(r) All fruit and plants of the citrus family</p>   | Barbados                      |

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(Inserted by S.R.O. 14/1966)

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**SECOND SCHEDULE**  
**ARTICLES PROHIBITED CONDITIONALLY**

<i>Articles</i>	<i>Conditions of Importation</i>	<i>Countries and Places</i>
(a) Sugar cane, sugar cane seedlings and plants, and all parts of the sugar cane	Under licence granted by the Governor	All countries and places.
(b) Banana plants and parts of banana plants	ditto	Bahamas, Bermuda, British Guiana, Central America, Dutch Guiana, and any island or place in the West Indies and the other Colonies of the Leeward Islands.
(c) Cotton seed, cotton lint, seed cotton and all packages, coverings, containers, bags and other articles and things which have been used as packings, coverings, containers, or bags for any cotton seed, cotton lint or seed cotton	Under licence granted by the Governor and subject to fumigation of any cotton seed, bags and packages immediately on landing	All countries and places other than Cuba, Haiti, Santo Domingo and Venezuela.
(d) Sprouted Coconuts	Under licence granted by the Governor	Trinidad, St. Vincent, St. Lucia, Grenada, Cuba, Jamaica, and all parts of Central and South America.
(e) All fruits and plants of the citrus family and parts of such fruits and plants	Under licence granted by the Governor	All countries and places other than Cuba, Haiti, Santo Domingo, Jamaica, the United States of America and the Commonwealth of Australia except the State of Tasmania.
(f) Soil and plants growing	Under licence granted by the Governor and	All countries and

[Subsidiary]

	in soil	subject to fumigation immediately on landing	places.
(g)	All other fruits except (i) plantains (ii) nuts (iii) dried, canned, candied or other processed fruits	To be accompanied by a certificate of origin from a responsible authority stating that such fruit was not grown in a country or place from whence its importation is prohibited	The British Isles, Canada, British West Indies, the State of Tasmania and the United States of America.
(h)	All vegetables except (i) onions (ii) Irish (English) potatoes (iii) canned or preserved vegetables	ditto	ditto
(i)	All living material (other than seeds) of plants of the family <i>Gramineae</i> (Grasses)	Under licence granted by the Governor	All countries and places.
(j)	Animal manure	Under licence granted by the Governor	ditto
(k)	Vegetable and flower seed	Under licence granted by the Governor and subject to being accompanied by a plant sanitation certificate from a responsible authority in the exporting country	All countries and places.

