L.N. 42 of 2009

PLANT QUARANTINE ACT
(CAP. 433)

Control of the Red Palm Weevil Regulation, 2009

IN exercise of the powers conferred by article 32 of the Plant Quarantine Act, the Minister for Resources and Rural Affairs has made the following regulations:-

Citation.

1. The title of these regulations is the Control of the Red Palm Weevil Regulations, 2009.

Scope.

2. These regulations concern the measures to be taken to control and contain the Red Palm Weevil [Rhynchophorus ferrugineus (Olivier)] and to prevent it from spreading and the implementation of Commission Decision (2007/365/EC) of 25th May, 2007 on emergency measures to prevent the introduction into and the spread within the Community of Rhynchophorus ferrugineus (Olivier), and amendments.

Interpretation.

3. In these regulations, unless the context otherwise requires:

"the Act" means the Plant Quarantine Act;

"the Commission" means the Commission of the European Community;

"the Department" means the Plant Health Department;

"the Director" means the Director Plant Health Department;

"the Minister" means the Minister responsible for agriculture;

"the pest" means the Red Palm Weevil [Rhynchophorus ferrugineus (Olivier)];

"susceptible plants" means plants, other than fruit and seeds, having a diameter of the stem at the base of over 5cm of Areca catechu, Arenga pinnata, Borassus flabellifer, Brahea armata, Butia capitata, Calamus merillii, Caryota maxima, Caryota cumingii, Chamaerops humilis, Cocos nucifera, Corypha gebanga, Corypha elata, Elaeis guineensis, Livistona australis, Livistona decipiens, Metroxylon sagu, Oreodoxa regia, Phoenix canariensis, Phoenix dactylifera, Phoenix theophrasti, Phoenix sylvestris, Sabal umbraculifera, Trachycarpus fortunei and Washingtonia spp.'.

Containment and eradication.

4. (1) On the occurrence or suspected occurrence of the pest in any plant, the Department shall be empowered to register the infected plant.

(2) Plants that are infected or suspected of being infected shall, to the satisfaction of the Director, be either felled or treated in the approved manner, so that they are no longer infected and, or do not pose any longer, in any manner whatsoever, a danger of proliferation of the pest.

Registration.

5. (1) Any person, entity, authority or any other legal entity which is responsible for the property where susceptible plants are situated, is obliged to register such plants with the Department, within 30 days from the publication of these regulations.

(2) Any entity, governing body, local council or any other legally constituted body, which is responsible for any areas and, or territories on which any susceptible plants are found, are obliged to keep a record of all the susceptible plants within their areas and, or territories.

Powers of the Department.

6. (1) If any person, entity, authority or any other legally constituted body, within twenty-four hours of its knowledge of the presence and discovery of the pest, fails to notify the Department with the relevant and accurate information denoting the presence and, or discovery of the pest, shall be liable to a fine in terms of article 30(1) of the Act.

(2) If the Department finds traces of the presence or possible presence of the pest in a plant and, or on the property it shall:

(a) send a seven day notification letter to the occupier, possessor, lessee, resident, owner of the plant or property,

where the owner, possessor, lessee, resident or owner is known to the Department, informing about the presence or the likely presence of the pest and that action is to be taken within seven days according to the instruction given in the letter; or

(b) when the occupier, owner, possessor or lessee is unknown to the Department, the Department shall affix a notice for seven days informing about the presence or the likely presence of the pest, on the façade, wall or border surrounding the property and instructing necessary action to be taken within seven days from the date of the notice.

Such persons shall be obliged to treat and or fell that plant or take any other action deemed necessary on the plant and or in the demarcated property in terms of instructions given by the Department within that period of time.

(3) The person who is responsible for the property where the plant is situated shall be obliged to follow the instructions given by the Department to eradicate and, or treat the plant against the pest. Should the Department decide to fell the plant then the person shall proceed forthwith to follow the Department's directions for its felling and disposal.

(4) The felling of infected susceptible plants and their subsequent disposal shall be regulated by these regulations and by the Director, who may, from time to time, issue the appropriate method for such felling and disposal, which any person, carrying out such act, shall rigorously adhere to under the supervision of the Department.

(5) Failure on the part of such person to adhere to the Department's instructions within the seven day notice period will entitle the Department, or any person or entity on behalf of the Department, to enter and have access to the property, with the assistance of the Police, if necessary, and take any necessary action to eradicate the pest. Such person may be liable to a penalty in terms of article 30(1) of the Act. Should such person restrict or, in any manner whatsoever, impede the Department in taking all the necessary steps to eradicate the pest, such person may also be liable to criminal proceedings in terms of the Criminal Code if the circumstances so merit. Cap. 9.

(6) All susceptible plants frond pruning or any similar activity shall be carried out in collaboration with and under the

supervision of the Department which shall give proper and adequate instructions for such pruning. Any such or similar activity cannot be carried out unless a written approval for such pruning or similar activity has been obtained from the Department, not less than fifteen days prior to the undertaking of the actual pruning or similar activity to be undertaken.

Consultative Board.

7. (1) The Minister shall have the right to appoint a Board to advise on the control and monitoring of the spreading of the pest and on preventing its further introduction to Malta.

(2) The Board shall be composed of not more than ten members, two of whom shall be the Director and a representative of the Surveillance and Inspectorate Unit within the Department .

(3) This Board shall only be consultative in nature and shall not have any powers to decide on any matter stipulated in these regulations.

Restriction of activities.

8. No activity of whatever nature, concerning any susceptible plant material, including fronds, may be undertaken unless prior written authorisation has been obtained from the Director, who may, from time to time, issue relative guidelines in terms of these regulations and in terms of the Act. Any person responsible for such activity without the requisite written authorisation, shall be liable to a penalty in terms of article 30(1) of the Act.

Responsibilities of legal entities.

9. (1) Any entity, governing body, local council or any other legally constituted body, which manages and, or administers or is responsible for any areas and, or territories on which any susceptible plants are found, shall be obliged to follow the guidelines issued by the Department and which the Director may, from time to time, deem necessary to issue.

(2) Failure by such entity, governing body, local council or any other legally constituted body to abide by the Department's instructions shall entitle the Director to gain access to any premises and, or property and to take any action which is deemed necessary in terms of these regulations. All expenses incurred by the Department in exercising such action shall be borne solely by the entity, governing body, local council or any other legally constituted body on whose property or premises the plants are found.

Importation and movement.

10. (1) All importation and, or movement of susceptible plants shall only be allowed after the necessary written approval

has been sought and obtained from the Department at least 24 hours before. The importation and, or movement of susceptible plants must conform to the relevant national legislation and relative EU Directives and Commission Decision (2007/365/EC) of 25th May, 2007 on emergency measures to prevent the introduction into and the spread within the Community of Rhynchophorus ferrugineus (Olivier) and its amendments.

(2) Failure to obtain such authorisation and, or to adhere strictly to these regulations and to Commission Decision 2007/365/EC and its Annexes will entail the person to a penalty in terms of the Act and the forfeiture and destruction of the said susceptible plants.

Powers of the Director.

11. (1) The Director shall revoke the measures taken to control the pest or to prevent it from spreading only if the Director is satisfied that it is no longer present and no further risks exist.

(2) These regulations are without prejudice to the Trees and Woodlands Protection Regulations, 2001 and subsequent amendments.

(3) Nothing in these regulations shall be construed to contravene the provisions of the Act and regulations thereunder, and, or relative European Union Regulations, Directives and Decisions in particular, but not exclusive of, the Decision taken by the EU Commission dated 25th May, 2007 relating to the Red Palm Weevil [Rhynchophorus ferrugineus (Olivier)].

(4) Without prejudice to the provisions of these regulations, the Director is empowered to issue additional and stricter guidelines, as may be required, and which are conducive to preventing the spread of the pest and its further entry into Malta.

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