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Taqsima B

L.N. 97 of 2019

PLANT QUARANTINE ACT
(CAP. 433)

Control of the Red Palm Weevil Regulations, 2019

IN EXERCISE of the powers conferred by article 32 of the Plant Quarantine Act, the Minister for the Environment, Sustainable Development, and Climate Change has made the following regulations:

Citation.

1. The title of these regulations is the Control of the Red Palm Weevil Regulations, 2019.

Scope.

2. These regulations provide the measures to be taken to control and contain the harmful organism *Rhynchophorus ferrugineus* (Olivier) hereinafter referred to as the Red Palm Weevil.

Interpretation.

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

Cap. 433.

"the Act" means the Plant Quarantine Act;

"designated site" means a site which contains palm trees of natural, cultural, historical or aesthetic value and which requires protection;

"the Director" means the Director responsible for the Directorate;

"the Directorate" means the Directorate or Department responsible for Plant Health;

"the pest" means the Red Palm Weevil;

"susceptible plants" means plants, other than fruit and seeds, having a diameter of the stem at the base of over 5cm and belonging to the following genera:

Brahea Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.;

"third country" means a country which is not a member of the European Union.

Containment

4. (1) Any person, 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 notify the Directorate in case of any presence or suspected presence of the pest and, or any signs or symptoms.

(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 as to contain the harmful organism and prevent further spread.

Powers of the Directorate.

5. (1) If the Directorate finds traces of the presence or possible presence of the pest in a plant and, or on a property, it shall:

(a) send a notification letter to the occupier, possessor, lessee, resident or owner of the plant or property, where the owner, possessor, lessee, resident or owner is known to the Directorate, informing about the presence or the likely presence of the pest and that action is to be taken within the time frame given by the Directorate in the said notification letter; or

(b) when the occupier, possessor, lessee, resident or owner is unknown to the Directorate, the Directorate shall affix a notice 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 the given time indicated on the notice from the date of the said 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 Directorate within that period of time.

(2) The person who is responsible for the property where the infected plant or plants are situated shall be obliged to follow the instructions given by the Directorate to treat the plant against the pest. Should the Directorate decide that the infected plant needs to be felled, then the person shall proceed forthwith to follow the Directorate's instructions for its felling and disposal.

(3) 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, indicate the appropriate method for such felling and disposal, which any person, carrying out such act, shall rigorously adhere to.

(4) Failure on the part of such person to adhere to the Directorate's instructions within the given period will entitle the Directorate, or any person or entity on behalf of the Directorate, to enter and have access to the property, with the assistance of the members of the Police Force, if necessary, and take any necessary action to control 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 Directorate in taking all the necessary steps to control the pest, such person may also be liable to criminal proceedings in terms of the Criminal Code if the circumstances so merit. Cap. 9.

Responsibilities of legal entities.

6. (1) Any entity, governing body, local council or any other legally constituted body which manages and, or administers or is responsible for any of the designated sites as published by the Directorate in the Gazette, shall be obliged to follow the guidelines and measures issued in Government Notices by the Directorate 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 Directorate'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 Directorate 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.

7. (1) (a) The importation of susceptible plants from a third country shall be notified to the Directorate at least forty-eight hours prior to the arrival of the material in Malta by means of the Third Countries Notification form available on the Directorate's website.

(b) The susceptible plants referred to in paragraph (a) shall be accompanied by a phytosanitary certificate as stipulated in point 37.1 of Schedule IV, Part A, Section I of the Plant Quarantine (Harmful Organisms) Regulations. S.L. 433.03

(2) Should the pest or signs or symptoms of the pest, be found present during official inspections that may be performed by the Directorate, on imported susceptible plants, the Directorate shall issue instructions for the actions to be taken.

(3) (a) The movement of susceptible plants, shall be declared through the Supplementary Declaration System of Malta (Intrastat) at least forty-eight hours (48) before such movement takes place.

(b) (i) Plants of *Palmae* referred to in sub-regulation (1) shall be accompanied by a plant passport prepared and issued in accordance with the Plant Quarantine (Harmful Organisms) Regulations.

S.L. 433.03

(ii) Such plants are subject to control measures or obligations in terms of any guidelines issued by the Directorate, or which the Director may, from time to time, deem necessary to issue.

Powers of the Director.

8. (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 no further risks exist.

S.L. 549.123

(2) These regulations are without prejudice to the Trees and Woodlands Protection Regulations and the Propagation Material of Ornamental Plants Regulations.

S.L. 433.31

(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.

(4) Without prejudice to the provisions of these regulations, the Director is empowered to issue additional guidelines, as may be necessary.

Repeal. S.L. 433.24

9. The Control of the Red Palm Weevil Regulations are hereby being repealed.

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