

DRAFT PLANT PROTECTION BILL

Be it enacted by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same as follows -

PART I - PRELIMINARY

Short title and commencement

1. (1) This Bill may be cited as the Plant Protection Bill.
- (2) This Bill shall come into force on a date to be appointed by the Minister by order published in the Gazette.

Interpretation

2. In this Bill, unless the context otherwise requires -

“additional declaration” means a statement that is required by an importing country to be entered on a phytosanitary certificate and which provides specific additional information on a consignment in relation to regulated pests;

“area” means an officially defined area, place or site of production in Belize;

“authorised officer” means a person appointed or designated and qualified to act as such under section 6(1)(a) of this Bill;

“Authority” means the Belize Agricultural Health Authority;

“biological control agent” means a natural enemy, antagonist, competitor or other organism used for pest control;

“buffer zone” means an area in which a specific pest does not occur or occurs at a low level and is officially controlled, that either encloses or is adjacent to an infested area, an area of low pest prevalence or a pest free area and in which phytosanitary measures are taken to prevent the spread of the pest;

“consignment” means a quantity of plants, plant products or other regulated articles being moved from or to Belize and covered, when required, by a single phytosanitary certificate;

“container” means any box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper, or other thing in which any plants, plant products or regulated articles are placed or packed;

“control” means the suppression, containment or eradication of a pest population;

“detention” means to keep a consignment in official custody or confinement as a phytosanitary measure;

“emergency measure” means a phytosanitary measure established as a matter of urgency in a new or unexpected phytosanitary situation, and which may or may not be a provisional measure;

“endangered area” means an area where ecological factors favour the establishment of a pest whose presence there will result in significant economic loss;

“export” means to export from Belize by any means, and “exportation” has a corresponding meaning;

“exporter” means any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any plant, plant product or regulated article to be exported from Belize;

“import” means to import into Belize by any means, and “importation” has a corresponding meaning;

“importer” means any person who, whether as owner, consignor, consignee, agent or broker is in possession of or in any way entitled to the custody or control of any plant, plant product or regulated article imported into Belize;

“import permit” means an official document authorising importation of plants, plant products or other regulated articles in accordance with phytosanitary requirements;

“incursion” means an isolated pest population of a pest recently detected in an area, not known to be established but expected to survive for the immediate future;

“inspection” means the official visual examination of plants, plant products or regulated articles to determine if pests are present or to determine compliance with phytosanitary requirements;

“IPPC” means the New Revised Text of the International Plant Protection Convention of 1997;

“memorandum of understanding” means a written agreement between the Authority and any other public or private entity under section 5(x) of this Bill;

“Ministry” means the Ministry responsible for agriculture, and “Minister” shall be interpreted accordingly;

“national pest of concern” means a non-regulated pest with a significant economic impact whose biological and epidemiological characteristics determine that its control in Belize must be performed at more than a local level, requiring the official intervention of the Authority for its management, for technical coordination or for enforcement;

“National Plant Protection Organization” or “NPPO” means the organisation designated under section 4 to discharge the functions of such organisation as specified in this Bill;

“official” means established, authorised, performed or ordered by the NPPO;

“official analyst” means a person authorised and qualified to act as such under section 6(1)(b) of this Bill;

“official laboratory” means a laboratory designated as such under section 6(4) of this Bill;

“outbreak” means a recently detected pest population, including an incursion, or a sudden significant increase in an established pest population of an area;

“owner” or “person in charge”, in relation to any thing or business, includes any person having for the time being the possession, custody or control thereof;

“package” means any thing in which plants, plant products or regulated articles are wholly or partially placed or wrapped and includes any basket, container, pail, tray or receptacle of any kind whether open or closed;

“person” means a natural person or a body corporate;

“pest” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;

“pest risk analysis” means the process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

“phytosanitary action” means an official operation, such as inspection, testing, surveillance or treatment, undertaken to implement any phytosanitary measure;

“phytosanitary certificate” means a certificate in conformity with the model phytosanitary certificate of the IPPC, and which is set out in regulations accompanying this Bill;

“phytosanitary measure” means any official measure having the purpose of preventing the introduction or spread of quarantine pests or limiting the economic impact of regulated non-quarantine pests in the territory of Belize;

“phytosanitary requirement” means any condition to be met on import by a consignment of plants, plant products or other regulated articles from a particular origin, having as its purpose the prevention of the introduction or spread of quarantine pests or the limitation of the economic impact of regulated non-quarantine pests;

“plant” means any living plant and the parts thereof, including seeds and germplasm;

“plant product” means any un-manufactured material of plant origin and those manufactured products which, by the nature or that of their processing, may create a risk for the introduction into or the spread of pests in Belize;

“point of entry” means an airport, seaport or land border point designated by the Authority for the importation of consignments, and/or the entrance of passengers in possession of plants, plant products or regulated articles;

“premises” includes any building, tent or other structure, permanent or otherwise, together with the land on which the same is situated and any adjoining land employed in connection therewith, used for the harvesting, packing, packaging, transport, storage or sale of any plant, plant product or regulated article;

“prescribed” means prescribed by this Bill or by any accompanying regulations;

“provisional measure” means a phytosanitary measure established without technical justification owing to a concurrent lack of adequate information;

“quarantine” means official confinement of plants, plant products or other regulated articles for surveillance and research or for further inspection, testing or treatment;

“quarantine area” means an area where a quarantine pest is present and is being officially controlled;

“quarantine pest” means a pest of potential economic importance to the area endangered thereby and not yet present there or present but not widely distributed and being officially controlled;

“re-export phytosanitary certificate” means a certificate in conformity with the model phytosanitary certificate for re-export of the IPPC, and which is set out in regulations accompanying this Bill;

“regulated article” means any plant, plant product, packaging, container, soil or other organism, object or material capable of harbouring or spreading pests;

“regulated non-quarantine pest” means a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact;

“regulated pest” means a quarantine pest or regulated non-quarantine pest;

“sell” includes to offer, advertise, keep, store, display, transmit, consign, convey or deliver for sale, or to exchange or to dispose of to any person in any manner whether for a consideration or otherwise, and “sold”, “selling” and “sale” shall have corresponding meanings;

“surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;

“technically justified” means justified on the basis of conclusions reached by using pest risk analysis or, where applicable, another comparable examination, as well as the evaluation of available scientific information, and “technical justification” has a corresponding meaning;

“test” means an official examination, other than visual, to determine if pests are present or to identify pests;

“treatment” means an officially authorised procedure for the killing, inactivation or removal of pests, for rendering pests infertile or for devitalisation;

“vehicle” means any vessel, aircraft, train, conveyance, cart, container, animal or other thing that can transport plants, plant products or regulated articles from one place to another.

PART II - ADMINISTRATION

Responsibility for administration

3. The primary responsibility for the administration of this Bill lies with the Minister.

Designation of the National Plant Protection Organization

4. The Authority shall serve as the National Plant Protection Organization of Belize for purposes of the implementation of this Bill and any accompanying regulations.

Functions of the NPPO

5. The NPPO shall perform the following functions -
 - (a) carrying out pest risk analysis;
 - (b) developing and publishing lists of regulated pests and national pests of concern;
 - (c) preventing and controlling the introduction of regulated pests and the spread of regulated pests and national pests of concern in Belize;
 - (d) undertaking emergency action for regulated pests and national pests of concern;
 - (e) issuing phytosanitary certificates or re-export phytosanitary certificates for consignments intended for export;
 - (f) carrying out surveillance of growing plants, including areas under cultivation and wild flora, and of plants and plant products in storage or in transport, for the purpose of reporting the occurrence, outbreak and spread of pests and of controlling those pests;
 - (g) inspecting and testing consignments of plants and plant products and, where appropriate, other regulated articles, for the purpose of preventing the introduction and spread of regulated pests;

- (h) ordering the treatment of consignments of plants, plant products and other regulated articles moving in international traffic, to meet phytosanitary requirements;
- (i) establishing and implementing certification programmes for planting material and plant products;
- (j) registering nurseries;
- (k) registering fertilizers;
- (l) protecting endangered areas, and designating, maintaining and surveying pest free areas and areas of low pest prevalence;
- (m) ensuring the phytosanitary security of consignments after certification and prior to export;
- (n) regulating the movement of biological control agents within, from or into Belize;
- (o) carrying out training and development of authorised officers and other NPPO staff;
- (p) distributing information regarding regulated pests and the means of their prevention and control;
- (q) providing justification to other countries concerning phytosanitary measures applied, either by reference to applicable international standards or technical justification;
- (r) notifying trading partners of relevant instances of non-compliance with import requirements;
- (s) notifying other countries of phytosanitary regulations, phytosanitary requirements and phytosanitary measures in accordance with international obligations;
- (t) providing the list of regulated pests to international or regional organisations of which Belize is a member, or to other NPPOs;
- (u) representing Belize in bilateral, regional and international forums related to phytosanitary matters;
- (v) developing pest diagnostic, investigative and analytical capabilities and establishing official laboratories for testing;
- (w) establishing committees of experts to provide advice and recommendations regarding specific issues arising under this Bill, such as organic production or citrus certification;

- (x) entering into memoranda of understanding for the implementation of activities under this section;
- (y) performing any other function set out in this Bill or necessary for its implementation.

Powers of appointment and designation

6. (1) The Authority may from time to time appoint or designate, with the concurrence of any Minister or other public authority as may be necessary, any person with the prescribed qualifications as -
- (a) an authorised officer to carry out all or any of the functions assigned to such officers under this Bill;
 - (b) an official analyst for purposes of enforcement of this Bill.
- (2) The Authority may carry out an appointment or designation under subsection (1) based on any memorandum of understanding.
- (3) Any authorised officer or official analyst appointed pursuant to subsection (1) shall perform such functions as may be specified in writing in the instrument of appointment.
- (4) The Minister may from time to time designate any laboratory as an official laboratory for purposes of enforcement of this Bill.

Powers of authorised officers

7. (1) Except for a dwelling place, an authorised officer may, without a warrant -
- (a) enter any area or premises in order to inspect plants, plant products and regulated articles under cultivation, in storage or in transport in order to report the existence, outbreak and spread of pests, and for that purpose, may -
 - (i) demand any information regarding any plants, plant products and regulated articles from the owner or person in charge of such area or premises;
 - (ii) take samples in the prescribed manner of any plant, plant product or regulated article or its package or container and submit it to an official laboratory for analysis by an official analyst;
 - (iii) examine, make copies of or take extracts from any book, statement or other document found at such area or premises, and demand from the owner or any person in charge an explanation of any entry in it;

- (iv) inspect any operation or process carried out in such area or on such premises, and demand any information regarding such operation or process from the owner or person in charge or from any person carrying out such operation or process;
 - (v) take any photographs;
 - (vi) seize any plant, plant product, regulated article, object, book, statement or document which appears to provide proof of a contravention of any provision of this Bill, providing a signed receipt in the prescribed form which shall be countersigned immediately by the owner or person in charge.
- (b) stop and search any vehicle, on land or at sea, in which plants, plant products or regulated articles are being or are suspected of being transported, packed, packaged, stored or sold;
 - (c) stop, search or detain any person who is suspected of committing an offence under this Bill;
 - (d) inspect consignments of plants, plant products or other regulated articles destined for import into Belize to determine whether they are infested by regulated pests, and, where necessary, verify the pest status of consignments by visual examination, the taking and testing of samples or otherwise;
 - (e) ensure that the treatment of plants, plant products or other regulated articles destined for import into Belize is undertaken in accordance with phytosanitary requirements;
 - (f) inspect consignments of plants, plant products or other regulated articles destined for export and, where necessary, verify the pest status of consignments by visual examination, the taking and testing of samples or otherwise, to ensure compliance with other countries' import requirements;
 - (g) issue phytosanitary certificates and re-export phytosanitary certificates on behalf of the NPPO to ensure compliance with other countries' import requirements, and where necessary carry out any required treatment;
 - (h) institute inquiries and request information or documentation upon suspicion that the provisions of this Bill have been or are being violated;
 - (i) carry out any other necessary phytosanitary action.
- (2) An authorised officer shall exhibit his or her official identification card on demand by any person affected by the exercise or performance of any power, duty or function of such authorised officer under this Bill.

- (3) An authorised officer exercising his or her authority under this section may request the presence and assistance of such law enforcement personnel as he or she considers necessary.
- (4) In the course of an inspection carried out under subsection (1), an authorised officer may, as he or she deems necessary, seize, destroy, detain, treat or otherwise dispose of any plants, plant products or other regulated articles, or order that any such action be taken, at the expense of the owner.
- (5) Any authorised officer who causes any thing to be seized, detained, treated, disposed of or destroyed in accordance with this Bill shall immediately serve a written notice on the owner with a description of the action taken and the reasons for it.

PART III - IMPORTS

Regulation of imports

8. (1) In order to prevent the introduction and spread of a regulated pest the NPPO may -
 - (a) establish phytosanitary requirements and require phytosanitary measures as conditions for the import of plants, plant products and other regulated articles;
 - (b) prohibit the import of plants, plant products and other regulated articles;
 - (c) take phytosanitary action in relation to imports;
 - (d) implement emergency and provisional measures in relation to imports.
- (2) Phytosanitary requirements and phytosanitary measures under subsection (1)(a) as well as prohibitions under subsection (1)(b) shall be based on existing international standards or otherwise be technically justified based on pest risk analysis.
- (3) As conditions change or new facts become available, the NPPO shall, without undue delay, modify or revoke phytosanitary requirements and phytosanitary measures as well as prohibitions.
- (4) The NPPO may negotiate bilateral and multilateral agreements for the evaluation and possible acceptance of alternative phytosanitary measures proposed by an exporting country's NPPO or equivalent institution as being equivalent to the phytosanitary measures required under subsection (1)(a).
- (5) The NPPO shall communicate phytosanitary requirements established under subsection (1)(a) as well as prohibitions established under subsection (1)(b) and any modifications to the same under subsection (3) to the Minister for publication.

Import requirements

9. (1) Consignments shall be imported into Belize only -
- (a) by authority of an import permit granted by the NPPO upon application by an importer in the prescribed form;
 - (b) where accompanied by an original phytosanitary certificate including an additional declaration if so required by phytosanitary requirements established under section 8(1)(a) of this Bill;
 - (c) at the official points of entry listed in regulations accompanying this Bill.
- (2) Phytosanitary certificates under subsection (1)(b) shall be issued by the competent authority of the exporting country and dated no more than fourteen (14) days before the entry of the consignment into Belize.
- (3) The NPPO may exempt specified plants, plant products or other regulated articles from an import permit based on pest risk analysis.
- (4) In the case of a decision by the NPPO prohibiting the import of plants, plant products or other regulated articles, the NPPO shall not issue an import permit and shall promptly notify the applicant that the permit has been refused.
- (5) The NPPO may review, modify or revoke an import permit at any time by written notice.
- (6) Any import permit issued under this section is subject to the payment of any prescribed fee.

Import

10. (1) All consignments for import are subject to inspection by an authorised officer at the point of entry.
- (2) Upon application by the importer and where the consignment has been sealed or marked as prescribed, certain plants, plant products or other regulated articles may be inspected by an authorised officer at their final destination.
- (3) All inspections carried out under subsection (1) or (2) shall be carried out during regular business hours, except where the plants, plant products or other regulated articles are extremely perishable or where their entry has otherwise been delayed, in which case upon application by the importer the NPPO may agree to an inspection at any other time.
- (4) Any inspection carried out under this section is subject to the payment of any prescribed fee.

Duty to declare arrival of regulated articles

- 11.** (1) Importers shall report the arrival of any consignment and apply for inspection to the authorised officer in charge of the point of entry.
- (2) Customs officers shall -
- (a) notify the Authority promptly upon the arrival of any plant, plant product or other regulated article in Belize;
 - (b) not release or dispose of the plant, plant product or other regulated article unless so authorised by any authorised officer.

Inspections and written notices

- 12.** (1) If, upon inspection carried out in accordance with section 10 of this Bill, the authorised officer determines that the consignment is accompanied by all relevant documentation required by section 9(1)(a) and (b) of this Bill and does not present any risk of the introduction or spread of quarantine pests, or any risk of unacceptable economic impact by regulated non-quarantine pests, he or she shall clear the consignment for delivery to customs, by written notice served on the importer.
- (2) Customs officers shall only clear a consignment for delivery upon presentation of the written notice referred to in subsection (1).
- (3) If, upon inspection carried out in accordance with section 10 of this Bill, the authorised officer determines that the consignment is not accompanied by all relevant documentation required by section 9(1)(a) and (b), or presents any risk of the introduction or spread of quarantine pests, or of unacceptable economic impact of regulated non-quarantine pests, he or she shall serve a written notice on the importer that a part of or the whole consignment is subject within a prescribed period of time to one or more of the following actions -
- (a) detention until the collection of additional information and/or the completion of sampling and testing;
 - (b) removal, including for treatment, to a quarantine station or any other location identified by the NPPO;
 - (c) reshipment;
 - (d) destruction.
- (4) The costs and responsibility for any action taken under subsection (3) shall be borne by the importer.
- (5) The Government of Belize shall bear no liability for the destruction of plants, plant products or other regulated articles in the course of or as a result of any action taken under subsection (3).

Quarantine stations

13. The NPPO may -
- (a) designate certain places as quarantine stations where plants, plant products or other regulated articles may be kept for phytosanitary observation, research, inspection, testing, treatment, detention or destruction;
 - (b) require that imported plants or plant products be kept and/or cultivated at a quarantine station under the NPPO's supervision for such time as the NPPO deems necessary.

PART IV - EXPORT, RE-EXPORT AND TRANSIT

Export

14. (1) In cases where an importing country requires the issuance of a phytosanitary certificate, treatment or testing before authorising the import of plants, plant products or other regulated articles from Belize, the exporter shall -
- (a) apply in the prescribed form to the NPPO for a phytosanitary certificate including an additional declaration if so required by the importing country;
 - (b) provide all documentation prescribed by regulations accompanying this Bill;
 - (c) make the consignment available for inspection.
- (2) The NPPO shall, upon application by an exporter under subsection (1)(a), inspect the consignment without undue delay.
- (3) Any inspection under subsection (2) is subject to the payment of any applicable fee.
- (4) Upon inspection under subsection (2) the NPPO shall -
- (a) where the consignment meets the importing country's phytosanitary requirements, issue a phytosanitary certificate including an additional declaration if so required;
 - (b) deny certification where the requirements under subsection (1) have not been met.
- (5) Upon issuance of a phytosanitary certificate under subsection (4)(a), the exporter shall pay any prescribed fee.
- (6) After the issuance of a phytosanitary certificate, the exporter shall export the consignment in compliance with instructions of the NPPO concerning maintenance of the phytosanitary security of a consignment after certification.

Re-export

15. (1) When a consignment is imported into Belize for further export to another country, the exporter shall -
- (a) apply in the prescribed form to the NPPO for a re-export phytosanitary certificate;
 - (b) provide all documentation required by regulations accompanying this Bill;
 - (c) make the consignment available for inspection.
- (2) The NPPO shall, upon application by an exporter under subsection (1)(a), inspect the consignment without undue delay.
- (3) Any inspection under subsection (2) is subject to the payment of any prescribed fee.
- (4) Upon inspection under subsection (2), the NPPO shall issue a re-export phytosanitary certificate where the NPPO has reasonable grounds to determine that -
- (a) the consignment has not been subject to the risk of infestation;
 - (b) the consignment as well as the accompanying documents comply with the phytosanitary requirements of the importing country.
- (5) Upon issuance of a re-export phytosanitary certificate under subsection (4), the exporter shall pay any prescribed fee.
- (6) After the issuance of a re-export phytosanitary certificate, the exporter shall re-export the consignment in compliance with instructions of the NPPO concerning maintenance of the phytosanitary security of a consignment after certification.
- (7) The original phytosanitary certificate shall accompany any consignment re-exported under subsection (6).
- (8) In cases where any of the requirements of subsection (4) are not met, the NPPO shall issue a phytosanitary certificate in accordance with section 14(4)(a) of this Bill.
- (9) Any phytosanitary certificate issued under subsection (8) shall indicate the country of origin of the consignment.

Transit

- 16.** (1) Transit of consignments through Belize shall be permitted only upon written permission by the NPPO granted after application by the importer in the prescribed form and payment of any prescribed fee.
- (2) Phytosanitary requirements shall not apply to a consignment in transit through Belize provided that -
- (a) the consignment has been packed so as not to permit any risk of the spread of regulated pests that might be present in the consignment;
 - (b) the consignment as well as the accompanying documents comply with the phytosanitary requirements of the country of destination;
 - (c) the consignment is accompanied by the phytosanitary certificate of the country of origin.

PART V - CONTROL OF PESTS

Declaration of regulated pests

- 17.** (1) The NPPO may declare a pest to be -
- (a) a quarantine pest or a regulated non-quarantine pest, based on pest risk analysis;
 - (b) a national pest of concern, based on surveillance and the potential local economic impact of the pest.
- (2) The NPPO shall communicate the lists of regulated pests and national pests of concern, and any subsequent amendments to the same, to the Minister for approval and publication.

Notification of presence of listed pests

- 18.** (1) The owner or occupier of any area or premises on which a regulated pest or a national pest of concern is present or is suspected to be present shall immediately notify the NPPO or the person in charge of the nearest police station.
- (2) The person to whom notice under subsection (1) above is given, if not an authorised officer, shall immediately convey the information to an officer of the NPPO.

Provisional declaration of quarantine area

- 19.** (1) If an authorised officer believes that a quarantine pest may be present in any area or premises, he or she may -
- (a) enter into such area or premises in accordance with the provisions of section 7(1)(a) of this Bill;

- (b) inspect any plants, plant products or other regulated articles;
 - (c) take such samples as he or she may consider necessary to verify the presence of the quarantine pest;
 - (d) declare such area or premises a provisional quarantine area.
- (2) Upon a declaration under subsection (1)(d) the NPPO may take emergency measures.
- (3) Where a provisional quarantine area has been declared, the NPPO shall within four (4) weeks either -
- (a) declare the area or premises that is infested or is suspected of being infested with any quarantine pest to be a quarantine area under section 20(1) of this Bill; or
 - (b) revoke the declaration of provisional quarantine.

Declaration of quarantine areas

- 20.** (1) Where the NPPO determines that an area or premises is infested or suspected of being infested with any quarantine pest, it may declare it a quarantine area.
- (2) The NPPO shall publish the declaration of quarantine in a written instrument establishing the period of quarantine and conditions for subsequent renewals of the declaration.
- (3) The NPPO shall regularly review the situation in respect of any quarantine area and as soon as either -
- (a) the relevant quarantine pest is considered no longer to be present; or
 - (b) the NPPO determines that it is no longer appropriate for the quarantine to be maintained in respect of part or all of the area;
- it shall, by written notice served on all owners or occupiers of the quarantine area, revoke the quarantine.

Declaration of pest free area

- 21.** Where the NPPO -
- (a) is satisfied through surveillance that a specific pest is not present in an area;
 - (b) adopts phytosanitary measures under section 23 of this Bill to keep the area free of the pest;
 - (c) institutes a monitoring system to verify that this condition is maintained;

it may declare it a pest free area.

Declaration of area of low pest prevalence

22. Where the NPPO -

- (a) is satisfied that a regulated pest occurs at low levels in an area;
- (b) adopts phytosanitary measures under section 23 of this Bill to keep the pest levels low;
- (c) institutes a surveillance system to verify that the pest levels remain low;

it may declare it an area of low pest prevalence.

Phytosanitary measures

23. (1) Any area that is infested or suspected to be infested by a regulated pest, as well as any pest free area, area of low pest prevalence or buffer zone may be subject to the following phytosanitary measures -

- (a) treatment or disposal of plants, plant products and other regulated articles, including the treatment of vehicles whether or not they have been found to be infested, in order to limit the spread of the quarantine pest, keep the area free from a specific pest or keep the level of a pest low, as the case may be;
 - (b) mandatory treatment;
 - (c) prohibition or restriction of the movement of any plant, plant product or other regulated article within, from or to the area or zone;
 - (d) prohibition of planting or replanting specific plants in a specified location;
 - (e) any other phytosanitary action which the NPPO deems necessary.
- (2) The NPPO may instruct, by order, an owner of any area to carry out specific phytosanitary measures within a specified period of time.
- (3) If an owner fails to comply with any order under subsection (2), the NPPO may authorise an authorised officer to enter upon the area or premises in question in order to carry out the required phytosanitary measures and/or, where circumstances so require, destroy plants, plant products or other regulated articles.
- (4) The costs and responsibility for any action taken under subsection (3) shall be borne by the owner.

- (5) The Government of Belize shall bear no liability for the destruction of plants, plant products or other regulated articles in the course of or as a result of any action taken under this section.

PART VI - OFFENCES AND PENALTIES

Offences

24. Any person who -

- (a) grows, possesses, sells, offers for sale, transports or distributes in any manner any plants, plant products or other regulated articles knowing that they are infested by a quarantine pest;
- (b) imports any plants, plant products or other regulated articles at a point of entry not listed in regulations to this Bill;
- (c) imports any plants, plant products or other regulated articles contrary to any other requirement prescribed under this Bill and accompanying regulations;
- (d) intentionally permits or causes the introduction or spread of any regulated pest;
- (e) exports any plants, plant products or regulated articles except in accordance with this Bill and accompanying regulations;
- (f) fails to safeguard the phytosanitary security of a consignment after issuance of a phytosanitary certificate under section 14(4)(a) or 15(8) or a re-export phytosanitary certificate under section 15(4) of this Bill;
- (g) fails to provide access, samples or information to an authorised officer upon request, or otherwise fails to comply with an order properly given under this Bill;
- (h) tampers with any samples taken under this Bill;
- (i) breaks any seal or alters any markings made by an authorised officer without permission;
- (j) gives false information to an authorised officer;
- (k) attempts to improperly influence an authorised officer in the exercise of his or her official functions under this Bill;
- (l) assaults, resists, intimidates, threatens or obstructs any authorised officer exercising lawful powers under this Bill;
- (m) poses as an authorised officer;
- (n) alters, forges, defaces or destroys any document issued under this Bill;

shall be guilty of an offence.

Offences by authorised officers

25. Any authorised officer who -

- (a) seizes any thing for any reason other than those prescribed in this Bill;
- (b) discloses any information acquired in the course of exercising his or her official functions under this Bill except where required to do so by his or her supervisor or by any court;
- (c) accepts any monetary or other benefit from a person affected by the exercise of official powers under this Bill;

shall be guilty of an offence.

Offences by customs officers

26. Any customs officer who -

- (a) fails to notify the Authority promptly upon the arrival of any plant, plant product or regulated article in Belize;
- (b) releases or disposes of the item unless so authorised by any authorised officer;

shall be guilty of an offence.

Offences by body corporate

27. Where an offence under this Bill which has been committed by a body corporate is proven to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) any director, manager or other similar officer of the body corporate;
- (b) any person who was purporting to act in the capacity of a director, manager or similar officer;

that person as well as the body corporate shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Penalties

28. (1) Any person who commits an offence under this Bill shall be liable to summary prosecution, and upon conviction -

- (a) in the case of a first offence, to a fine not less than ___ or to imprisonment for a term not exceeding ___ or both;

- (b) in the case of a subsequent offence, to a fine not less than ___ or to imprisonment for a term not exceeding ___ or both;
 - (c) where the offence is a continuing offence, to an additional fine of not less than ___ or imprisonment for ___ days for each day on which the offence continues.
- (2) Upon the conviction of any person for any offence under this Bill, the court may, in addition to any other sentence imposed, declare any plant, plant product or other object in respect of which the offence has been committed, or which was used in connection with the offence, forfeited to the state and disposed of as the court may direct.

Fixed penalties

- 29.** (1) Notwithstanding anything to the contrary in this Bill or any other applicable law, where an authorised officer has reason to believe that any person (hereafter referred to as the “alleged offender”) is committing or has committed an offence specified in regulations under this section, the authorised officer may then and there serve notice in writing upon the alleged offender charging him or her with the commission of the offence.
- (2) The authorised officer shall at the time of the service of notice referred to in subsection (1) inform the alleged offender that he or she must -
- (a) appear before the magistrate on the date specified; or
 - (b) in accordance with procedures set out in subsections (3) and (4), pay the fixed penalty set out in regulations under this section, in lieu of appearance before the magistrate.
- (3) An alleged offender who chooses to pay the fixed penalty referred to in subsection (2)(b) shall -
- (a) within seven days of the date of the notice, sign the notice in acknowledgement of guilt and return it, together with the sum cited therein, to the clerk of the magistrate’s court;
 - (b) be treated for all purposes in law as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence in respect of which payment was made.
- (4) The admission of guilt and the fixed penalty paid under this section shall be dealt with by the magistrate in the same manner as an adjudication in court of an offence punishable on summary conviction and for which no conviction is recorded.

PART VII - MISCELLANEOUS AND GENERAL PROVISIONS

Duty to assist and cooperate

- 30.** Customs, port, airport, airline, postal, shipping, police, provincial and local authorities shall assist authorised officers in the performance of their functions and exercise of their powers under this Bill by providing such facilities and assistance as the NPPO may request from time to time.

Right of appeal

- 31.** (1) Any person aggrieved by an action or decision of an authorised officer or an official analyst under this Bill may appeal to the Authority within the prescribed time period and in the manner prescribed by regulations.
- (2) The decision of the Authority on any appeal lodged under subsection (1) shall not prejudice the right of any aggrieved party to seek recourse in the courts.

Good faith defence

- 32.** No member of the Committee, authorised officer, official analyst or other representative of the Authority shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of official functions under this Bill.

Presumptions

- 33.** In any proceedings under this Bill, a certificate of analysis purporting to be signed by the director or head of an official laboratory or by an official analyst shall be accepted as prima facie evidence of the facts stated therein, provided that -
- (a) the party against whom it is produced may require the attendance of the official analyst who performed the analysis, for purpose of cross-examination;
- (b) no such certificate shall be admissible in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

Powers of the Minister to make regulations

- 34.** (1) The Minister may, on the advice of the Authority, make regulations for the purpose of carrying out the provisions of this Bill.
- (2) Without prejudice to the generality of subsection (1), the Minister may by order make regulations providing for any of the following -
- (a) the lists of regulated pests and national pests of concern;
- (b) the procedures for implementation of phytosanitary measures and emergency phytosanitary measures;

- (c) the procedures for surveillance, inspection, sampling, testing, treatment, confinement at quarantine stations, transport, reshipment and destruction;
- (d) the declaration and implementation of provisional quarantine and quarantine;
- (e) the establishment, membership, mandate and operating procedures of any committees set up under this Bill;
- (f) implementation of certification programmes;
- (g) nursery registration;
- (h) fertilizer registration;
- (i) the designation of official points of entry;
- (j) phytosanitary requirements for the import of plants, plant products and other regulated articles;
- (k) the procedure by which an area may be declared pest free or of low pest prevalence;
- (l) the procedures to be followed by authorised officers, official analysts and official laboratories in the exercise of their functions under this Bill;
- (m) the level of fees and costs for inspection and analysis or any other official actions taken under this Bill;
- (n) the forms to be used for the purposes of this Bill, including applications, permits, certificates and receipts for articles seized, as well as the relevant application procedures;
- (o) the offences that will be subject to a fixed penalty as set out in section 29, as well as the applicable procedures;
- (p) the appeal procedures applicable under this Bill;
- (q) any other matters deemed necessary to achieve the purposes of this Bill.

Savings and repeal

35. (1) The following enactments are hereby repealed -

- (a) ...
- (b) ...

- (2) Any regulations or other subsidiary instruments passed under prior legislation shall remain in force unless and until specifically repealed.
- (3) Without prejudice to subsections (1) and (2), in the event of any conflict or inconsistency between the provisions of this Bill and any other enactment in force in Belize, the provisions of this Bill shall prevail.