



Tuvalu

PLANTS ACT

2008 Revised Edition

CAP. 44.30



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Arrangement of Sections

Section

PART I - PRELIMINARY	5
1 Short title.....	5
2 Interpretation.....	5
3 Quarantine officers	6
PART II - CONTROL OF PLANT IMPORTATION	7
4 Prohibition of the importation of certain plants	7
5 Restriction on places at which plants can be imported	7
6 Restrictions on importation	7
7 Powers of inspection and destruction	8
8 Restriction on the importation of soil	8
9 Powers of quarantine officers in respect of imported plants.....	8
10 Regulations controlling importation	9
PART III - ERADICATION OF PLANT DISEASE WITHIN TUVALU	10
11 Infected areas	10
12 Power to treat imported plants	10
13 Regulations controlling eradication of disease	10
PART IV - MISCELLANEOUS	11
14 Provision of services by quarantine officers and forms	11
15 Fees	11
16 Offences	11
17 The Government not liable for loss or damage.....	12
18 Powers relating to plants suspected to have been illegal imported.....	12

SCHEDULE 1	13
PHYTOSANITARY CERTIFICATE	13
FUMIGATION OR DISINFECTION TREATMENT	13
DESCRIPTION OF CONSIGNMENT	13
PERMIT TO IMPORT PLANTS	14
SCHEDULE 2	15
FEES	15
Supporting Documents	
ENDNOTES	16



Tuvalu

PLANTS ACT

AN ACT TO PROVIDE FOR THE PROTECTION OF PLANTS WITHIN TUVALU¹

Commencement [1st March 1977]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Plants Act.

2 Interpretation²

In this Act unless the context otherwise requires —

“**Agricultural Officer**” means the Agricultural Officer for Tuvalu or the holder of such other office as the Minister may from time to time by notice designate;

“**conveyance**” means any vessel or aircraft or any container therein;

“**Minister**” means the Minister for the time being responsible for agriculture;

“**plant pest**” means any form of plant or animal life or any pathogenic agent including insects nematode, snail, fungus, bacteria, virus, or weed which is or may be injurious to plants;

“**plant**” means all species, variety and type of plant or part thereof whether live or dead, including stem, branch, tuber, bulb, corm, stock budwood, cutting, layer, slip, sucker, root, leaf, flower, seed and any plant material;

“plant disease” means any condition injurious to, or adversely affecting, any plant and includes the causative agent and any form, or stage of development of such condition;

“plant material” means plants and all items manufactured in whole or in part from a plant;

“prohibited plant” means any plant the importation or introduction of which into Tuvalu is prohibited by order under section 4;

“quarantine officer” means any person appointed by the Minister under section 3 to be a quarantine officer for the purpose of this Act;

“restricted plant” means any plant the importation or introduction of which into Tuvalu has been made subject to conditions and restrictions by virtue of an order under section 4;

“soil” means the loose surface material of the soil in which plants may grow and which may serve to harbour plant pests; generally it consists of disintegrated rock with an admixture of organic material and soluble salts and may include gravel, rocks, aggregate, compost, clay, sand, silt or vermiculture; and

“treatment” means the use of measures designed to prevent by any of the following methods the entry into Tuvalu of plant pests, namely:

- (i) treatment if feasible, failing which destruction or re-exportation of plants together with the soil, container wrappings or other articles with which the plant or any other plant may have been in contact;
- (ii) treatment or re-exportation of any conveyance in which any plant pest, plant or such articles have been imported into Tuvalu.

3 Quarantine officers³

- (1) Plant quarantine officers shall be appointed by the Public Service Commission.
- (2) It shall be lawful for any quarantine officer, in addition to the powers conferred on him by section 9, to enter upon any land or premises (other than a dwelling - house) in any part of Tuvalu for the purpose of searching for any plant disease or pest or examining any plant and for him to do all things necessary for the purposes of such search or examination or for otherwise carrying out his duties under the provisions of this Act and any regulations made hereunder.
- (3) Any person who wilfully hinders, obstructs or delays, or neglects or refuses to furnish to a quarantine officer acting in the performance of his duties any information required by him under this Act or regulations made hereunder shall be liable to a fine of \$500.

PART II - CONTROL OF PLANT IMPORTATION

4 Prohibition of the importation of certain plants

- (1) For the purpose of protecting agriculture and livestock against the introduction from outside Tuvalu of pests and plant diseases the Minister may by order prohibit the importation or introduction into Tuvalu of any plants, including plants generally or specified plants generally or plants from any specified place, or specified plants from any specified place, and either absolutely or so as to allow the importation or introduction subject to specified conditions or restrictions.
- (2) Any person who wilfully imports or introduces, or attempts to import or introduce, into Tuvalu any prohibited plant or any restricted plant in respect of which the conditions and restrictions applying thereto or any of them have not been complied with shall be liable to a fine of \$1000 and to imprisonment for 12 months, and the plant shall be seized and destroyed by a quarantine officer.

5 Restriction on places at which plants can be imported

- (1) Save with the express authority in writing of the Agricultural Officer no plant shall be imported into Tuvalu except through the port of Funafuti and the airport at Funafuti or such other ports or airports as may from time to time be designated by the Minister.
- (2) The officer in charge of every post office at which any plant arrives shall notify the Agricultural Officer of the arrival as soon as practical thereafter.

6 Restrictions on importation

- (1) No plant shall be imported into Tuvalu —
 - (a) except under and in accordance with the terms and conditions of —
 - (i) a notice under subsection (2), or
 - (ii) a permit first had and obtained under section 14(1); and
 - (b) unless such plant is accompanied by a certificate substantially in accord with Form A as set out in Schedule 1, certifying it to be free from plant disease or pests, and signed by an official authorised to issue such certificates in the country in which the plant was produced or whence it was imported;
 - (c) unless such plant is packed in packages and wrappings that are clean, new and have not previously been used, and which do not contain any sawdust, hay, chaff, leaves, straw, moss, vegetable fibre or forest litter as packing material; and

- (d) unless such plant has been inspected by a quarantine officer and the quarantine officer has approved its release or onward transmission.
- (2) The Minister may by notice declare that any plant which he shall specify may be imported without a permit under section 14(1), subject to such terms and conditions as he shall specify.
- (3) Any plant and the package, including all packing material in which it is packed and any other article with which the plant has been in contact, may be seized and destroyed by a quarantine officer if the plant, package or packing materials are imported in contravention of the provisions of this section.

7 Powers of inspection and destruction⁴

- (1) No plant or container or wrapping in which the plant has been imported or any other article with which the plant has been in contact shall be released by an Officer of Customs within the meaning of the Customs Act⁵ or by an officer of the post office, within the meaning of the Post Office Act⁶, until a quarantine officer has examined the said plant, container, wrapping, or other articles with which it has been in contact and it shall be the duty of the consignee or his agent to open from its covering any such plant and to afford every facility to the quarantine officer during his examination thereof.
- (2) Any plant found or suspected to be infected with any plant pest shall be treated as prescribed, or failing prescription, as the Agricultural officer may determine, together with the soil, containers, wrappings or other articles with which the plant or plant pest has been in contact and any conveyance in which the plant pest, plant or such articles were imported into Tuvalu.

8 Restriction on the importation of soil⁷

- (1) Except with the express permission of the Agricultural Officer, no soil shall be imported into Tuvalu.
- (2) Any soil imported may be seized by a quarantine officer and disposed of in accordance with the Agricultural Officer's instructions.
- (3) Any person who wilfully imports or introduces, or attempts to import or introduce, soil into Tuvalu, shall be liable to a fine of \$5,000 and to imprisonment for 12 months.

9 Powers of quarantine officers in respect of imported plants

- (1) A quarantine officer may for the purpose of ascertaining whether or ensuring that the provisions of this Act or any regulations made hereunder are being observed —
 - (a) enter and inspect any vessel or aircraft entering Tuvalu and open and examine any box, case or container of any sort carried thereon;

- (b) require any passenger entering Tuvalu to state either orally or in a signed declaration in writing whether he is carrying any plants;
 - (c) search and examine the baggage and effects of any passenger entering Tuvalu; and
 - (d) fumigate or otherwise treat or cause to be fumigated or otherwise treated any such baggage or effects as he may reasonably suspect to have been exposed to infection or infestation by any plant disease or pest.
- (2) A quarantine officer may seize any plant or other thing in respect of or in relation to which there is reasonable cause to believe that an offence under this Act or regulations made hereunder has been, is being, or is likely to be committed and the master of every incoming vessel and the pilot of every incoming aircraft shall, in relation to his vessel or aircraft and every box, case or container therein or thereon, afford the quarantine officer every reasonable facility for so doing.
- (3) A quarantine officer may deal with any plant seized under subsection (2) as if it had been held in pursuance of section 7.

10 Regulations controlling importation⁸

For the purposes of this Act the Minister may make regulations generally, and in particular for the purpose of excluding plant pests from Tuvalu such regulations may —

- (a) prohibit or restrict the importation or prescribe the conditions for entry into Tuvalu of plants or other articles liable to introduce plant pests into Tuvalu;
- (b) prohibit the importation into Tuvalu of any plant pest;
- (c) provide for the issue of permits to import plants;
- (d) prescribe the inspection, and treatment of imported plants;
- (e) prescribe the inspection and treatment of conveyances from outside Tuvalu, and the restriction of the movement;
- (f) provide for the treatment of garbage;
- (g) provide for the intermediate quarantine of plants;
- (h) make such other provision as may be necessary to exclude plant pests from Tuvalu; and
- (i) provide for the charging of fees for any quarantine service or treatment or other act done in pursuance of this Act.

PART III - ERADICATION OF PLANT DISEASE WITHIN TUVALU

11 Infected areas⁹

Any local government council on the advice of the Director of Agriculture may at any time by notice declare an area within its area of authority to be an infected area and prohibit the movements of plants and plant material into, out of or within this area.

12 Power to treat imported plants

- (1) If a quarantine officer knows or has reason to believe that a plant imported into Tuvalu at any time is infected with any plant disease or carries any pest he may, with the authority of the Agricultural Officer, examine the said plant for the purpose of determining as far as possible whether any pest or plant disease is present and it shall be the duty of the owner to afford every facility to the quarantine officer during his examination.
- (2) If the quarantine officer deems it necessary in respect of any plant examined or if the plant is infected with any plant disease or carries any pest, he may proceed in accordance with the provisions of sections 7(2) and 7(3) as if the plant had been held in pursuance of that section.

13 Regulations controlling eradication of disease

The Minister may make regulations generally for the better carrying out of the provisions of this part of this Act and, in particular, but without limiting the generality of the foregoing, for any or all of the purposes mentioned hereunder —

- (a) to prescribe measures to be taken in infected areas to further prevent the introduction and spread of plant disease and pests and the eradication of the same;
- (b) to further restrict the introduction into and movement of plants and plant material within areas lying outside infected areas;
- (c) to give quarantine officers further powers to remove or destroy, or cause to be removed or destroyed, any plant or soil which is infected with plant disease or pest, and take such further steps as they may see fit to prevent the spread of the plant disease or pest; and
- (d) to compensate owners for the destruction or removal of plant material in pursuance of the regulations.

PART IV - MISCELLANEOUS

14 Provision of services by quarantine officers and forms

- (1) Any person desiring to import plant or plant material into Tuvalu and in respect of which no notice has been issued under section 6(2) and no order is in force under section 4 may request the issue of a permit permitting such importation and the Agricultural Officer may issue a permit in accord with Form B, as set out in Schedule 1, for the importation of such plant, subject to such terms and conditions including the detention and quarantine of the plant for not more than 1 year, as he may specify.
- (2) Any person desiring to export plants or plant material may request the Agricultural Officer to have such plants or plant material examined and treated by a quarantine officer and a certificate issued in the form of Form A set out in Schedule 1.
- (3) If, pursuant to a request in accordance with subsection (2), a quarantine officer is satisfied, after testing and thorough examination, and, if he thinks fit treatment (including fumigation), that the plant material is not infected with any plant disease and does not carry any pest, he may, on receipt of the fee set out in Schedule 2 issue a certificate in Form A as set out in Schedule 1.
- (4) The Minister shall have power by order to make or substitute new forms for those set out in Schedule 1.

15 Fees

- (1) The fees set out in Schedule 2 shall be paid by or on behalf of any person wishing to export plant or plant material for the services performed and the issue of a certificate in pursuance of section 14(3).
- (2) The Minister shall have power by order to substitute from time to time a new scale of fees for those prescribed in Schedule 2.

16 Offences¹⁰

Any person who acts or attempts to act in contravention of any of the provisions of this Act or of any order or regulation made hereunder or who refuses or neglects to observe or carry out any conditions, restrictions or requirements lawfully imposed hereunder or thereunder shall be liable, unless another penalty is provided for the offence elsewhere in this Act, to a fine of \$3,000 and to imprisonment for 6 months.

17 The Government not liable for loss or damage

No legal proceedings shall lie for any loss or damage that may result from anything lawfully done under the provisions of this Act or any regulations made hereunder or from any process or detention that may be considered necessary or desirable to cleanse or disinfect any plant or other articles or goods, or to discover the existence or otherwise of any pest or plant disease.

18 Powers relating to plants suspected to have been illegal imported

- (1) A quarantine officer may require any person possessing any plant which is being or has been imported to furnish proof that the importation of the plant is not unlawful by virtue of the provisions of this Act.
- (2) If proof under subsection (1) is not furnished to his satisfaction the quarantine officer may seize and destroy the plant.

SCHEDULE 1**FORMS***(Sections 6 and 14)***FORM 'A'***MINISTRY OF COMMERCE AND NATURAL RESOURCES**Tuvalu**Plants Act***PHYTOSANITARY CERTIFICATE**

This is to certify that the plants, parts of plants or plant material shown below, or representative samples of them, have been thoroughly examined by a Quarantine Officer of the Ministry and found, to the best of his knowledge, to be substantially free from injurious pests and diseases.

Name of examining Officer: Date and Stamp:

FUMIGATION OR DISINFECTION TREATMENT

Treatment:

.....

Date:

Signature:

Designation:

DESCRIPTION OF CONSIGNMENT

Name and address of Exporter:

.....

Name and address of Consignee:

.....

Number and description of packages:

Distinguishing marks:

Country of Origin:

Means of conveyance:

Port of entry:

Quantity and name of produce:

Botanical name(s):

FORM 'B'*MINISTRY OF COMMERCE AND NATURAL RESOURCES**Tuvalu**Plants Act***PERMIT TO IMPORT PLANTS**

PERMIT NUMBER:

To:

.....

Subject to the provisions of the Plants Act, and to the conditions endorsed below, permission is granted to you to import the following plants-

Botanical Name	Common Name	Quantity or Number	Nature (cuttings, plants) seeds etc.	Country of Origin

Conditions:

1. This permit is valid for a period of from the date of issue.
2. The plants may only be imported through

(port of entry)

- 3.
- 4.
- 5.

Date and Stamp: Signed:

(Agricultural Officer)

SCHEDULE 2**FEES¹¹***(Section 14)*

Fees for the inspection and treatment of plants and plant material prior to issuing a Phytosanitary Certificate under section 14(2).

Plants:

Seedlings of any plant	\$1
Cuttings of any plant	\$1
Corms of banana, babai and taro	\$2
Seeds of any plant	\$1

Plant Products:**Fresh:**

Bananas	15c per kilo.
Coconuts (husked) .. .	15c ""
Babai and taro .. .	15c ""
Breadfruit	15c ""
Pandanus	15c ""
Vegetable	15c ""
Copra	15c ""

Plant Material:**Handicrafts:**

Floor mats	30c per square metre
Baskets, hats, canoes, skirts, fans, fish traps, swords, tablemats	30c each
Other Plant Material	30c per item or per kilo
Whichever is, in the opinion of the Agricultural Officer appropriate.	

ENDNOTES

¹ 1990 Revised Edition, Cap. 39 – Act 8 of 1991

Amended by Act 8 of 1991 commencement 1 December 1992 by GN 6/1992
and LN 13/1993

² Amended by Act 8 of 1991

³ Amended by Act 8 of 1991

⁴ Amended by Act 8 of 1991

⁵ Cap. 26.04

⁶ Cap. 32.02

⁷ Amended by Act 8 of 1991

⁸ Substituted by Act 8 of 1991

⁹ Substituted by Act 8 of 1991

¹⁰ Amended by Act 8 of 1991

¹¹ Amended by LN 13/1993