



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 28 of 2025)

THE PLANT PROTECTION BILL, 2025

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N.A./B/No. 28/2025

THE PLANT PROTECTION BILL, 2025

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A Bill for

AN ACT of Parliament to provide a regulatory and institutional framework for the prevention of introduction, establishment and spread of plant pests; management of plant pests; facilitate safe trade in plants, plant products and other regulated articles; and for connected purposes.

ENACTED by Parliament of Kenya, as follows—

PART I—PRELIMINARY

- Short title. 1. This Act may be cited as the Plant Protection Act, 2025.
- Interpretation. 2. In this Act, unless the context otherwise requires—
- “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to plant protection;
- “consignment” means any quantity of plants, plant products or other regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate;
- “conveyance” includes—
- (a) railway coaches, wagons and railway rolling stock;
 - (b) watercrafts; and
 - (c) any other means of transport not prescribed by this Act;
- “County Response Committee” means the County Plant Health Emergency Response Committee constituted under section 45;
- “disinfection” means the process of freeing a plant, plant product or other regulated articles from pathogens;
- “disinfestation” means the freeing of a plant, plant product or other regulated articles from vertebrate and invertebrate pests;
- “emergency response” means a prompt phytosanitary

action undertaken to prevent, eradicate or contain an imminent, new or unexpected phytosanitary situation;

“infected area” means any area or place in which a pathogen occurs;

“infestation” means the presence of vertebrate and invertebrate pests in an area, plant, plant product or other regulated articles;

“intercept” means to refuse or control the entry or movement of a consignment for failure to comply with phytosanitary regulations;

“National Plant Protection Organization” means the National Plant Protection Organization designated under section 8;

“National Response Committee” means the National Plant Health Emergency Response Committee constituted under section 44;

“noxious weed” means any weed considered to be harmful to the environment or animals in accordance with this Act;

“other regulated articles” means any storage place, packaging, conveyance, used vehicles, machinery, equipment, container, soil and any other related organism, object or material capable of harboring or spreading pest deemed to require phytosanitary measures;

“pathogen” means a microorganism causing disease in plants or plant products;

“pest” means any specie, strain or biotype of a plant, an animal or a pathogenic agent injurious to a plant or plant product;

“pest of concern” means a pest of economic importance as determined by a specific county;

“phytosanitary certificate” means an official document attesting that a consignment meets the phytosanitary import requirements;

“phytosanitary certificate for re-export” means a phytosanitary certificate issued for a consignment that has

been imported into a country from which it is then exported;

“phytosanitary measure” means any legislative or official procedure to prevent the introduction and spread of regulated pests;

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

“plant import permit” means a plant import permit issued in accordance with section 17;

“plant import requirements register” means the plant import requirements register maintained by the Service under section 20;

“plant product” means a plant part, an unmanufactured material of plant origin including grain and manufactured products that, by their nature or that of their processing, may create a risk for introduction and spread of pests;

“quarantine” means confinement of plant, plant product, other regulated articles, pest or beneficial organism for inspection, testing, treatment, observation or research;

“regulated pest” means a pest of potential economic importance to Kenya, whether absent or if present not widely distributed, that is controlled by the Service;

Cap. 349.

“Service” means the Kenya Plant Health Inspectorate Service established under the Kenya Plant Health Inspectorate Service Act;

“Technical Committee” means the Kenya Technical Committee on Biological Articles and Control Agents established under section 11; and

“wood packaging material” means wood or wood products, excluding paper products, used in protecting or covering a commodity and includes a pallet or dunnage.

Scope of application.

3. This Act shall apply to the prevention and management of—

(a) plant pests; and

- Objects of the Act.
- (b) plants, plant products and other regulated articles.
4. The objective of this Act is to—
- (a) give effect to the International Plant Protection Convention by designating the National Plant Protection Organization;
 - (b) put in place measures to prevent the introduction, establishment and spread of pests through plants, plant products and other regulated articles being stored, moved, propagated, researched, cultivated or growing in the wild whether for commercial, imports or other purposes;
 - (c) guide the trade and movement of plants, plant products and other regulated articles; and
 - (d) provide for the management of pests including transboundary and migratory pests.

**PART II –RESPONSIBILITIES RELATING TO
PLANT PROTECTION MATTERS**

- Role of National Government.
5. (1) The National Government shall have the following functions under this Act—
- (a) providing policy direction on matters relating to prevention and spread of plant pests;
 - (b) establishing mechanisms for and coordinating the management of transboundary, migratory pest and new pest incursions; and
 - (c) capacity building for county governments and other stakeholders to prevent the establishment and spread of plant pests.
- Role of County Governments.
6. A County Government shall have the following functions under this Act—
- (a) receiving, verifying and analysing pest reports from land occupiers or land owners at the county level;
 - (b) advising land occupiers or land owners on pest management practices at the county level;

- (c) notifying the national government and the Service on the status of pest management at the county;
- (d) in partnership with the national plant protection organization, undertaking pest surveillance at the county level;
- (e) undertaking pest management at the county level;
- (f) enforcing pest management measures prescribed by the Service at the county level;
- (g) establishing and operating plant clinics in partnership with crop health experts from the Kenya Agricultural Livestock Research Organization and other research organizations; and
- (h) building capacity of the producers and other county stakeholders on pest management.

Role of the Service.
Cap. 349.

7. Pursuant to section 5(a) of the Kenya Plant Health Inspectorate Act, the functions of the Service under this Act shall include—

- (a) advising the Cabinet Secretary on all matters relating to plant protection;
- (b) advising county governments on matters relating to plant health within the respective county;
- (c) putting in place mechanisms for early warning systems and rapid response on matters relating to plant health;
- (d) prescribing and enforcing phytosanitary measures to prevent and control the establishment and spread of plant pests;
- (e) registering bio-fertilizers, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers and any related products and articles except biopesticides regulated under the Pest Control Products Act;

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- (f) monitoring plant protection product residues and heavy metals in agricultural produce to support compliance with sanitary requirements;
- (g) supporting County Governments and other stakeholders on matters relating to plant protection and plant health matters; and
- (h) advising the National Government, County Governments and other stakeholders on emerging areas related to plant protection and plant health matters.

Designation of the
National Plant
Protection
Organization.

8. (1) The Kenya Plant Health Inspectorate Service is designated as the National Plant Protection Organization of Kenya for purposes of the International Plant Protection Convention.

(2) The functions of the Service as the National Plant Protection Organization shall include—

- (a) issuing of phytosanitary certificates for exports and import permits for plants, plant products and other regulated articles;
- (b) growing plants to establish and report the occurrence, outbreak and spread of pests;
- (c) prescribing phytosanitary measures to prevent the outbreak, and spread of pests;
- (d) inspecting consignments of plants, plant products and other regulated articles to prevent the introduction or spread of pests;
- (e) providing measures for the disinfestation or disinfection of plants, plant products and other regulated articles to ensure they meet phytosanitary requirements;
- (f) inspecting plants during active growth and facilities handling plant products and other regulated articles to prevent the introduction or spread of pests;
- (g) providing for the designation, maintenance and surveillance of pest free areas and areas of low

pest prevalence;

(h) conducting pest risk analysis to establish import conditions and market access; and

(i) perform any other function related to the functions of a National Plant Protection Organization.

Contact point for the Convention.

9. The Service shall be the contact point for the International Plant Protection Convention.

National Enquiry Point.

10. The Service shall be the National Enquiry Point on matters relating to plant protection and plant health.

The Kenya Technical Committee on Biological Articles and Control Agents.

11. (1) There shall be a committee to be known as the Kenya Technical Committee on Biological Articles and Control Agents which shall facilitate risk assessment for importation, exportation, local production and use of biological articles and control agents.

(2) Without prejudice to subsection (1), the functions of the Technical Committee shall be to—

(a) evaluate, through risk assessment, bio-fertilizers, biopesticides, biological control agents, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers and any related products and articles;

(b) consider the efficacy trial reports for imported or locally produced bio-fertilizers, beneficial organisms, soil conditioners, bio-stimulants, organic fertilizers and any related products and articles, except biopesticides, and make recommendations to the Service for registration.

Membership of the Technical Committee.

12. (1) The Technical Committee shall consist of—

(a) the head of the department, in the Ministry responsible for matters relating plant protection, responsible for plant protection, who shall be the Chairperson;

- (b) the Managing Director of the Kenya Plant Health Inspectorate Service or their designated representative;
- (c) the Director-General of the Kenya Agricultural and Livestock Research Organization or their designated representative;
- (d) the Chief Executive Officer of the Pest Control Products Board or their designated representative;
- (e) the head of the department, in the Ministry responsible for matters relating to veterinary services, responsible for veterinary services or their designated representative;
- (f) the Director General of the National Environment Management Authority or their designated representative;
- (g) the head of the department, in the Ministry responsible for matters relating to public health, responsible for public health and sanitation or their representative;
- (h) the Managing Director of the Kenya Bureau of Standards or their designated representative;
- (i) one person, with relevant technical expertise or technical experience, representing the Council of Governors;
- (j) one person, with relevant technical expertise, representing institutions of higher learning; and
- (k) one person with relevant technical expertise representing agrochemical dealers nominated by a national umbrella body of agrochemical dealers; and.
- (l) one person with relevant technical expertise representing farmers nominated by a national umbrella body of farmers.

(2) The Technical Committee may co-opt any person with requisite knowledge and expertise to assist in the performance of its functions:

Provided that the co-opted members shall not:

- (a) vote on any matter for which a vote of the

	Technical Committee is required; or (b) count in determining the quorum of the Technical Committee.
Conduct of business and affairs of the Technical Committee.	13. (1) Unless otherwise provided, the Technical Committee shall undertake its business and affairs in the prescribed manner. (2) The Technical Committee may constitute such sub-committees as may be necessary for the efficient performance of its functions.
Secretariat of the Technical Committee.	14. The Service shall provide secretariat services to the Technical Committee.
	PART III — CONTROL OF PLANT, PLANT PRODUCTS AND OTHER REGULATED ARTICLES <i>Import of plant, plant products or other regulated articles</i>
Restriction on importation.	15. (1) No person shall import a plant, plant product or other regulated article except in the manner provided under this Act. (2) Without prejudice to subsection (1), no person shall import an organism for research without the approval of the Service. (3) The Service shall put in place statutory and administrative measures to control the importation of any plant, plant product or other regulated articles likely to pose a phytosanitary risk. (4) Any person who contravenes subsection (1) or (2) commits an offence.
Importation through designated points.	16. A plant, plant product or other regulated article shall be imported into Kenya through points of entry designated by the Ministry responsible for matters relating to immigration.
Plant import permit.	17. (1) No person shall import a plant, plant product or other regulated article without a valid plant import permit issued by the Service in the prescribed manner. (2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a

fine not exceeding two million shillings or twenty percent of the value of the imported consignment, whichever is higher, or to imprisonment for a term not exceeding one year, or to both.

Biological import permit.

18. (1) No person shall import a bio-fertilizer, biological control agent, beneficial organism, soil conditioner, bio-stimulant, organic fertilizer, biopesticide or any related product and article without a valid biological import permit issued by the Service in the prescribed manner.

(2) A person who contravenes subsection (1) commits an offence.

Register of importers.

19. The Service shall maintain a register of all persons who import plants, plant products or other regulated articles for traceability and risk management.

Plant import requirements register.

20. The Service shall maintain a register of the requirements for the importation of any plant, plant product or other regulated articles in such form and containing such particulars as it may determine .

Declaration of a consignment.

21. (1) Every person, including a courier service operator, arriving into Kenya with a plant, plant product or other regulated article shall declare the plant, plant product or other regulated article, to the Service, at the designated points of entry.

(2) The person in-charge of a point of entry shall notify the Service of the arrival of any consignment of a plant, plant product or other regulated article in the prescribed manner.

(3) Where a person contravenes subsection (1) or (2),—

(a) the Service may intercept the plant, plant product or other regulated article in the prescribed manner; and

(b) the person shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one

year, or to both.

Export of plant, plant products or other regulated articles

Register of exporters.

22. (1) The Service shall maintain a register of persons who export plants, plant products and other regulated articles for traceability and monitoring compliance.

(2) The registration of an exporter by other competent authorities related to plants, plant products and other regulated articles may be a prerequisite for registration of any person who export plants, plant products and other regulated articles by the Service.

Phytosanitary
certification
certificates.

and

23. (1) Any plant, plant product or other regulated article intended for export shall be inspected and where necessary, tested by the Service to ensure compliance with any the plant health requirements and other conditions set by the importing country.

(2) A person seeking to export any plant, plant product or other regulated article shall obtain a phytosanitary certificate from the Service in the prescribed manner.

(3) The Service shall issue a phytosanitary certificate in respect of plants, plant products and other regulated article that meets the requirements under this Act and the phytosanitary requirements set by the importing country.

(4) The Service shall issue a phytosanitary certificate for re-export where a consignment of plants, plant products or other regulated articles imported are repackaged or divided but the integrity therein is not lost.

(5) The Cabinet Secretary shall, in consultation with the Service, make regulations relating to the form, validity, conditions for issuance and the cancellation of phytosanitary certificates.

(6) A person who—

(a) alters or falsifies a phytosanitary certificate or any signature therein; or

(b) obtains a phytosanitary certificate, through

false pretence or falsely represents the phytosanitary certificate,

commits an offence.

Non- compliance.

24. Where any plant, plant product or other regulated article intended for export fails to meet the plant health requirements or requirements of plant protection product residues and heavy metal contaminants of the importing country, the Service shall restrict exportation and may detain or require destruction of the plant, plant product or other regulated article intended for export at the exporters cost.

PART IV— MANAGEMENT OF PLANT PESTS

Introduction of pests

Prohibition on
introduction of pests.

25. (1) No person shall introduce a pest, noxious weed or an invasive weed into the Kenyan territory.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one year, or to both.

Risk analysis

Pest risk analysis.

26. (1) The Service shall conduct pest risk analysis to determine requirements for the importation of plants, plant products and other regulated articles.

(2) Without prejudice to subsection (1), the Service shall periodically conduct risk assessment to determine the noxiousness or invasiveness of plants or weeds.

(3) The Service shall maintain and publish a list of regulated pests, noxious weeds and invasive species that are prohibited or restricted from entering Kenya.

Phytosanitary risk
assessment.

27. (1) The Service shall conduct a phytosanitary risk assessment of biological articles and control agents to determine their safety and import conditions prior to consideration by relevant agencies.

(2) The import conditions determined under this section shall be maintained by the Service in the plant

import requirements register.

Plant quarantine stations

Plant Quarantine
Station of Kenya.

28. The Kenya Plant Health Inspectorate Service Plant Quarantine and Biosecurity Station is designated as the Plant Quarantine Station of Kenya.

Designation of
quarantine stations.

29. Without prejudice to section 28, the Service may, by notice in the *Kenya Gazette*, designate any other substations as plant quarantine stations for purposes of this Act.

Post-entry quarantine
facilities.

30. (1) The Service may, upon inspection, designate a facility as post-entry quarantine facility for purposes of this Act.

(2) A facility designated under subsection (1) shall be used for holding imported consignments of plants, plant products and other regulated materials to verify whether they are infested with quarantine pests.

(3) The Service may approve an offshore country quarantine facility as a post quarantine facility to screen plant pests on behalf of the Service prior to importation of plants, plant products and other regulated articles.

(4) The Cabinet Secretary may make regulations to give effect to this section.

New pests, unknown pests and pests of concern

Declaration of a new
pest or pest of
concern.

31. (1) Where there is an emergence of a new pest or a pest of concern to Kenya, the Service shall, in the prescribed manner, declare the pest as a new pest or pest of concern and classify the pests for purposes of this Act.

(2) Without prejudice to subsection (1), where there is an emergence of a new pest or pest of concern within a county, the county government may, in consultation with the County Response Committee, declare the pest as a pest of concern to the county for the purposes of this Act.

(3) The Service shall maintain a record of any pests declared under this section.

Publication of
occurrence of a new
pest.

32. (1) The Service may, from time to time, issue reports and information on the occurrence or outbreak of

any pests, regulation of pests and the measures for their prevention and control.

(2) Any person who publishes or makes false or misleading information on the occurrence of any pest commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term of not exceeding one year, or to both.

Duty to report an unknown pest.

33. (1) Any occupier or owner of land who suspects that their plants or land is infected or infested with an unknown pest shall—

- (a) notify the authorised officer of the presence or possible occurrence of the pest at the earliest time possible for identification and confirmation of its status;
- (b) contain the infected or infested plants, plant products and other regulated articles or pest where applicable; and
- (c) take all reasonable steps to prevent the spread of the pest.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

Pest management measures

Pest management measures.

34. The Service or the county government, as the case may be, shall identify and prescribe pest management measures for the eradication, containment and management of the pests.

Pest management by an occupier or owner of land.

35. (1) Without prejudice to section 33, an authorised officer may require an occupier or owner of land to put in place any prescribed pest management measures to treat any plants or land, reduce or prevent the spread of any pest or destroy plants:

Provided that where there are two or more joint occupiers or joint owners, each occupier or owner shall be deemed

to be an occupier or owner for the purpose of this section.

(2) The Cabinet Secretary may, in consultation with the Service and County Governments, make regulations to give effect to this section.

Pest free areas.

36. (1) The Cabinet Secretary may, in consultation with the Service and County Governments, take such measures to establish and maintain a pest free area.

(2) The measures envisaged under subsection (1) shall include—

- (a) pest surveillance;
- (b) delineation of an area;
- (c) pest management; or
- (d) monitoring of pests of concern.

Containment measures.

37. (1) The Service or the county government, as the case may be, may impose containment measures to prevent the spread of a regulated pest or pest of concern in a county or any part of Kenya.

(2) Where a pest or pest of concern has spread to more than one county, the Service may, in consultation with the county governments of the affected counties, impose containment measures in the affected county.

(3) The Cabinet Secretary may make regulations for the better carrying into effect to this section.

PART V— BORDER SURVEILLANCE, CONTROL AND MONITORING

Border surveillance.

38. The Service shall periodically conduct border surveillance to monitor unauthorised and illegal movement of plants, plant products and other regulated articles.

Inspection of consignments.

39. (1) The Service shall inspect all plants, plant products and other regulated articles at designated points of entry, in the prescribed manner and upon payment of prescribed fee.

(2) Any plant, plant products and other regulated articles inspected under this section shall be accompanied

by—

- (a) a phytosanitary certificate from the country of origin; and
- (b) a plant import permit and other relevant documents.

(3) Every importer of a plant, plant product and other regulated article shall ensure that the plant, plant product and other regulated article is inspected in accordance with this Act.

(4) When undertaking an inspection under this Act, necessary samples may be drawn by the Service for testing, to ascertain compliance with this Act and other import requirements.

(5) Where the consignment inspected under this section meets the prescribed requirements, the Service shall release the consignment to the importer:

Provided that, where the consignment was imported under quarantine, the consignment shall be released to the designated quarantine station or an approved post entry quarantine facility.

(6) Where the consignment inspected under this section fails to meet the prescribed requirements, the Service may order, at the importer's cost,—

- (a) the treatment and release of the consignment;
- (b) the destruction of the consignment;
- (c) the consignment be shipped back to the exporting country; or
- (d) the detention of the consignment, for a period not exceeding six months, pending investigation and decision making.

(7) The Service may notify the exporting country of the non-compliance in subsection (6).

(8) Any person who tampers or removes a consignment detained by the Service under subsection (6) commits an offence and shall be liable, on conviction, to a

Access conveyance.	to	fine not exceeding two million shillings or imprisonment for a term not exceeding one year, or to both. 40. (1) An inspector shall have access to any conveyances for the purpose of carrying out phytosanitary inspection. (2) A person in-charge of a point of entry shall facilitate the inspector's access to any conveyance for purposes of phytosanitary inspection including inspection of associated waste.
Monitoring transshipment.	during	41. (1) The Service shall monitor phytosanitary risks associated with consignments on transit and transshipment. (2) Where phytosanitary risks have been identified in subsection (1) the Service shall prescribe mitigation measures for the containment of the identified risks.
Phytosanitary decontamination of used vehicles, machinery and equipment.		42. (1) Any used vehicle, machinery or equipment, imported into or transiting through Kenya, whether whole, disassembled or in parts shall undergo phytosanitary decontamination at the importer's cost and in the prescribed manner prior to shipment to Kenya. (2) Where the used vehicles, machinery or equipment are imported from countries where phytosanitary decontamination cannot be undertaken, the vehicles, machinery or equipment shall be decontaminated upon arrival and inspection carried out at the importer's cost. (3) Where a used vehicle, machinery or equipment destined for export from Kenya is required to undergo phytosanitary decontamination by the importing country, the vehicle, machinery or equipment shall be decontaminated, by an authorized person, according to the importing country requirements at the exporter's cost. (4) A person who contravenes this section commits an offence.

PART VI – EMERGENCY RESPONSE MEASURES

Emergency measures.	43. (1) The Service may impose emergency measures where a new or unexpected phytosanitary risk is identified and for such a period as the Service may deem necessary.
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(2) The Service shall notify affected persons of any emergency measures imposed under this Part.

(3) The Service shall review the basis of the emergency measures imposed through pest risk analysis.

(4) Where the emergency measure is maintained after the review under subsection (3), the Service shall periodically evaluate the risk.

National Plant Health
Emergency Response
Committee.

44. (1) There shall be a National Plant Health Emergency Response Committee which shall be responsible for planning and management of plant health emergencies at the national level.

(2) Without prejudice to subsection (1), the National Response Committee shall be responsible for—

- (a) developing a national plant health emergency response plan;
- (b) coordinating the implementation of the national plant health emergency response plan;
- (c) mobilising resource for addressing emergencies;
- (d) coordinating post emergency recovery processes; and
- (e) advising the Cabinet Secretary on emergency response measures for the eradication and prevention of the spread of pests including containment measures.

County Plant Health
Emergency Response
Committee.

45. A County Government may, in consultation with the Service, establish a County Plant Health Emergency Response Committee for contingency planning and management of plant health emergencies within that county.

(2) Without prejudice to subsection (1), a County Response Committee shall be responsible for—

- (a) determining pests of concern to the county and develop county plant health response plans;

- (b) advising the respective County Government on emergency response strategies to be implemented at the county level;
- (c) advising the respective County Government on early warning and rapid response strategies for pest incursions and outbreaks including containment measures;
- (d) mobilising resources for addressing emergencies; and
- (e) providing periodic reports to the National Government on the status of implementation on emergency measures.

Conduct of business and affairs.

46. The Cabinet Secretary may, in consultation with the Service and County Governments, make regulations on the membership and the conduct of business and affairs of the National Response Committee and the County Response Committee.

Pest surveillance and early warning.

47. (1) The Service shall conduct regular pest surveillance to determine the status of pests and inform an appropriate phytosanitary action.

(2) The County Governments shall carry out regular pest surveillance in their respective counties to determine the status of pests within the county for pest management purposes.

(3) Without prejudice to subsections (1) and (2), other relevant stakeholders may carry out pest surveillance in accordance with their respective mandates.

(4) The findings of surveillance conducted under this section may be shared to the Service, stakeholders and other the County Governments.

(5) The Service may, in consultation with a respective County Government and other stakeholders, develop and implement early warning systems for effective emergency response within the county.

PART VII — SUPPRESSION OF NOXIOUS AND INVASIVE WEEDS OR PLANTS

Declaration of a
noxious or invasive
weed or plant.

48. The Cabinet Secretary shall, by notice in the *Kenya Gazette*, declare a plant or weed to be noxious or invasive weed or plant.

Duty to report
declared noxious and
invasive weed or
plant.

49. (1) For the purpose of this section, a "responsible person" means—

- (a) the occupier of land, or, in the case of unoccupied land, the registered owner thereof;
- (b) in the case of a mining area, the holder of the respective mining licence for that area;
- (c) in the case of government or community lands over which grazing or other rights have been granted, the holder of those rights; and
- (d) in the case of land under the control of or vested in a county government, the county government concerned.

(2) A responsible person who suspects the occurrence of a declared noxious and invasive weed or plant on their land shall—

- (a) report to an authorised person, the presence of any noxious and invasive weed or plant; and
- (b) clear the noxious and invasive weed or plant, or cause it to be cleared from that land.

(3) A person who fails to comply with the provisions of this section commits an offence.

Power to order
persons to clear land.

50. (1) Where an authorised officer finds a plant declared to be a noxious and invasive weed or plant on any land, the officer may, by notice in writing, require an owner or occupier of land to clear off the noxious and invasive weed or plant in the prescribed manner.

(2) A person who fails to comply with a notice under subsection (1) commits an offence.

(3) Where an owner or occupier fails to comply with a notice under subsection (1), the authorised officer may enter the land and eradicate the noxious or invasive weed or plant at the owner's or occupier's cost or undertake

any other appropriate measures.

(4) The Service shall, in consultation with relevant agencies, provide technical advice for the eradication of noxious or invasive weeds or plants under this section.

(5) A person who contravenes this section commits an offence.

**PART VIII – MANAGEMENT OF
TRANSBOUNDARY AND MIGRATORY PESTS**

Early warning
systems for migratory
pests.

51. (1) The Cabinet Secretary shall, in consultation with the Service, put in place mechanisms for early warning systems for migratory pests which shall include—

- (a) monitoring and rapid detection of pest outbreaks;
- (b) data recording and transmission systems suitable for remote and difficult locations where monitoring is a challenge;
- (c) resource mobilisation and budgetary allocations;
- (d) capacity building in the collection of data for forecasting;
- (e) development of incident command mechanisms for improved coordination amongst different stakeholders;
- (f) development of tools for vulnerable communities to establish systems to respond to emergencies; and
- (g) promoting knowledge exchange on pest management.

(2) The Service shall maintain an updated list of migratory pests reported in Kenya.

Reporting
migratory pests.

52. An occupier or owner of a land that is infested with any pest, developmental stage egg, larvae, hoppers or adults of migratory pests shall report its occurrence to an authorised officer in the prescribed manner.

Management
of
migratory pests.

53. (1) The management of migratory pests may be

undertaken by the application of a broad-spectrum pesticide:

Provided that a broad-spectrum pesticide shall not be used in any—

- (a) public or private water;
- (b) visible standing water;
- (c) populated area; or
- (d) land within the borders of an excluded area as declared by the respective County Government.

(2) Where migratory pests occur on a land, the owner or occupier of the land shall use measures that are approved to control the migratory pests.

(3) Any person undertaking any management measures relating to migratory pest shall report to the authorised officer on each swarm, flock or infestation controlled.

PART IX— CONTROL OF WOOD PACKAGING MATERIAL

Control of wood packaging material.

54. (1) Any wood packaging material imported into or exported from Kenya shall be treated and marked in the prescribed manner and at the importer's or exporters cost.

(2) A person who contravenes subsection (1) commits an offence.

PART X –PLANT HEALTH AND SAFETY ASSURANCE

Establishment of laboratories.

55. (1) The Service may establish laboratories to undertake its analysis, testing, diagnosis and quality assurance functions under this Act.

(2) The laboratories established by the Service under this section shall be the designated laboratories of Kenya.

(3) A County Government may establish a laboratory for the performance of its functions under this Act.

(4) The Service may authorise qualified persons to undertake diagnostic and analytical services, on its behalf, for purposes of this Act.

(5) A person authorised under subsection (4) shall provide all information related to authorised services.

(6) The Cabinet Secretary may, in consultation with the Service and County Governments, make regulations to give effect to this section.

Phytosanitary
measures.

56. (1) The Service may, at the owner's cost, carry out or authorise the carrying out of—

- (a) phytosanitary treatment;
- (b) phytosanitary decontamination; or
- (c) destruction of non-compliant consignments.

Control of regulated
pests under research.

57. (1) No person shall carry out research on regulated pests or articles without the approval of the Service unless authorized by legislation

(2) The Service shall put in place measures to mitigate phytosanitary risks during the research under this section.

(3) The Service shall maintain a database of approved facilities handling regulated pests under research.

(4) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one year, or to both.

Certification of
nursery and tissue
culture facilities.

58. (1) No person shall propagate for sale plants under nursery or tissue culture facility without a valid plant health certification from the Service.

(2) A person who contravenes subsection (1) commits an offence.

Certification of plant
and plant products as
organically produced.

59. (1) No person shall certify a plant or plant product as organically produced unless the plant or plant product meets the prescribed national or international organic certification requirements.

(2) The Service may authorise any qualified person to be an organic certification body for plants and plant products for purposes of this Act.

Registration and

60. (1) No person shall locally produce, import or

production of
formulated products
of biological articles.

offer for sale any formulated products of biological articles for commercialization unless the person is registered by the Service.

(2) A person seeking to produce locally biological articles for commercialization shall seek the approval of the production facility by the Service.

(3) No person shall distribute, stock, repackage or store for sale any formulated products of biological articles unless the product and their premises is registered by the Service.

(4) Without prejudice to subsection (1) and (3), any commercial biopesticides cleared by the Technical Committee may be processed and registered in accordance with Pest Control Products Act.

(5) The Service shall maintain a database of all products and facilities approved under this section.

(6) A person who contravenes subsections (1), (2) or (3) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

Monitoring of
pesticide residues and
heavy metal
contaminants.

61. (1) The Service may continuously monitor the production, distribution, storage or sale of plants and plant products, whether locally produced, imported or for export, to—

- (a) ensure compliance with the national and international requirements;
- (b) get information on the levels of plant protection products residues and heavy metals present in plants and plant products to inform enforcement measures by the Service and various government agencies;
- (c) advice the National Governments and County Governments on the status of compliance of plants and plant products in relation to pesticide residues and heavy metals for policy

intervention;

- (d) identify risk areas in the plant and plant products supply chain in relation to pesticide residues and heavy metals to improve systems of various value chains; and
- (e) notify importers and exporting countries on the non-compliance with requirements relating to pesticide residues and heavy metals.

PART XI— INSPECTORS AND LABORATORY ANALYSTS

Plant health inspectors.

62. (1) The Service shall appoint qualified persons to be plant health inspectors for the purposes of this Act.

(2) An inspector appointed under subsection (1) shall—

- (a) carry out phytosanitary certification of plants, plant products and other regulated articles for import or export;
- (b) conduct transboundary pest surveillance;
- (c) specify and enforce measures on the establishment of pest free areas and areas of low pest prevalence;
- (d) phytosanitary certification of nursery facilities;
- (e) specify treatment of consignments of plants, plant products and other regulated articles;
- (f) monitor the implementation of prescribed mitigation measures for phytosanitary risks in plants, plant products and other regulated articles in research, on transit and transshipment;
- (g) receive and evaluate pest and migratory pest reports;
- (h) undertake pest risk analysis;
- (i) specify and enforce measures for the management of noxious or invasive weeds

and plants; and

- (j) evaluate status of noxious or invasive weed and plants.

(3) The Service shall cause to be published in the *Kenya Gazette*, the names of all plant health inspectors appointed under this section.

County plant health inspectors.

63. (1) A County Executive Committee Member shall appoint qualified persons to be county plant health inspectors for the purposes of this Act.

(2) An inspector appointed under subsection (1) shall—

- (a) receive and evaluate reports from farmers on pest, noxious or invasive and migratory pest;
- (b) evaluate the pest status of any plant, plant product or other regulated articles;
- (c) evaluate the status of noxious weed or invasive weed;
- (d) undertake pest monitoring;
- (e) create awareness and undertake capacity building of farmers in pest management;
- (f) in collaboration with the Service, implement measures for the establishment of pest free areas; and
- (g) specify and enforce pest management, containment and eradication measures in the county including in nursery facilities.

(3) Without prejudice to subsection (2), a county plant health inspector shall not undertake roles relating to—

- (a) import and export of plants and plant products;
- (b) materials under research; and
- (c) activities under this Act that are outside the jurisdiction of a county or at designated points of entry.

Powers of inspectors.

64. (1) An inspector appointed under this Part shall have power to—

- (a) enter any land, place or premises at which there is, or is suspected to be a plant, plant product or other regulated articles;
- (b) enter any land to ascertain whether any noxious or invasive weed or plant exists;
- (c) inspect and take samples of any plants, plant products or other regulated articles;
- (d) inspect any process or operation carried out in any premises in connection with the manufacture, production, processing or treatment of plant products or other regulated articles;
- (e) open any package found in any place or premises that the inspector suspects has a plant, plant product or other regulated articles;
- (f) require any person to produce relevant documents to facilitate an inspection, examination or for obtaining copies;
- (g) seize and search any person, baggage, packaging, conveyance that he suspects contains plant, plant product or other regulated articles;
- (h) stop the distribution, sale or use of any plant, plant product or other regulated articles which he suspects is harbouring a regulated pest;
- (i) seize, destroy, detain, treat or otherwise dispose of any plants, plant products or other regulated articles, or order that such action be taken where he has reason to believe such plants, plant products or other regulated articles are harbouring a regulated pest;
- (j) seal off any place, premises or conveyance containing infested or infected plants, plant products or other regulated articles;

- Obstruction of inspectors.
- (k) confine, seal and order immediate treatment of consignments of plants, plant products and other regulated articles to prevent the introduction or spread of pests; and
- (l) take any other reasonable and necessary measures in the exercise of the powers outlined under this section.
- 65.** A person who—
- (a) gives false information to an inspector;
- (b) obstructs, hinders, interferes with, refuses to furnish information to the inspector;
- (c) fails to produce any document required by the inspector;
- (d) fails to comply with any lawful order given by any inspector in execution of his powers or duties; or
- (e) otherwise contravenes any other provisions in this Act,
- commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.
- Laboratory analysts.
- 66.** (1) The Service shall appoint qualified persons to be Service laboratory analysts for purposes of this Act.
- (2) A laboratory analyst appointed under subsection (1) shall—
- (a) collect samples for laboratory analysis for purposes of this Act;
- (b) analyse any sample and generate a report for purposes of this Act; and
- (c) perform any other relevant function as may be assigned.

PART XII - MISCELLANEOUS PROVISIONS

- Fees and charges.
- 67.** The Cabinet Secretary may, on the advice of the Service and by a notice in the *Kenya Gazette*, prescribe a

	fee or charges for any service offered by the Service.
General penalty.	68. A person convicted of an offence under this Act for which no penalty is provided shall, be liable, on conviction to a fine not exceeding two hundred and fifty thousand kenya shillings or to a term not exceeding six months, or both.
Dispute resolution.	69. (1) Where a dispute arises during the implementation of this Act, the dispute shall at first instance be resolved internally through a committee within the Service. (2) Where amicable resolution fails in subsection (1), the dispute shall be referred to arbitration.
Personal liability.	70. (1) No inspector, officer or agent of the Service or county government shall be personally liable for the official decisions made in good faith in executing the provisions of this Act. (2) No suit, prosecution or other legal proceeding shall lie against any inspector or his assistant for anything done in good faith and without negligence under this Act.
Phytosanitary investigation.	71. The Service or County Governments, as the case may be, may in the course of implementing the provisions in this Act undertake phytosanitary investigations for scientific-based phytosanitary regulatory decisions.
Use of registered pest control products.	72. Where pest control products are prescribed for use for management of phytosanitary risks under this Act, the pest control products shall be used in accordance to the Pest Control Products Act.
Cap. 346. Regulations.	73. (1) The Cabinet Secretary may, in consultation with the Service and County Governments, make regulations for the better carrying into effect the provisions of this Act. (2) Without prejudice to subsection (1), the regulations made under this Act shall provide for— (a) the prevention of introduction of plant pests; (b) pest risk analysis and import requirements; (c) the form, validity, conditions for issuance

- and the cancellation of plant import permits and phytosanitary certificates;
- (d) the post entry quarantine processes and approval and certification of post entry quarantine facilities;
- (e) eradication and containment, restriction of movement, cultivation and harvesting in areas infested with regulated pests;
- (f) prevention and management of noxious weeds;
- (g) regulation of wood packaging materials;
- (h) organic certification;
- (i) monitoring of pesticide residues and heavy metals;
- (j) pest eradication;
- (k) the power to detain, destroy, intercept due to non-compliance;
- (l) the appointment of inspectors, analyst and other officers;
- (m) decontamination of used vehicles, machinery and equipment; and
- (n) dispute resolution mechanisms.

PART XIII - REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation of Part.
Cap. 324.

74. For purposes of this Part, “repealed Act” means the Plant Protection Act.

Repeals and savings.

75. (1) Subject to subsection (2), the Plant Protection Act is repealed.

(2) Notwithstanding subsection (1)—

- (a) any act done or action undertaken under the repealed Act shall, unless a contrary intention appears, be deemed to have been done under the provisions of this Act;
- (b) any statutory instrument issued under the repealed Act shall remain in force until specifically revoked under this Act;

- (c) any licence issued under the repealed Act and subsisting immediately before the commencement of this Act shall be deemed to have been issued under this Act; and
- (d) any contractual obligations existing pursuant to the repealed Act are preserved.