

SUBSIDIARY LEGISLATION 433.24**CONTROL OF THE RED PALM WEEVIL
REGULATIONS**

6th February, 2009

LEGAL NOTICE 42 of 2009, as amended by Legal Notices 134 of 2009, 21 of 2011 and 98 of 2013.

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

Citation.

2. These regulations concern the measures to be taken to control and contain the Red Palm Weevil [*Rhynchophorus ferrugineus* (Olivier)] and to prevent it from spreading and the implementation of Commission Decision (2007/365/EC) of 25th May, 2007 on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier), and Commission Decision 2010/467/EU as regards susceptible plants and the measures to be taken in cases where *Rhynchophorus ferrugineus* (Olivier) is detected.

Scope.

*Amended by:
L.N. 21 of 2011.*

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

Interpretation.

"the Act" means the Plant Quarantine Act;

*Amended by:
L.N. 21 of 2011;
L.N. 98 of 2013.
Cap. 433.*

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

"the Director" means the Director Plant Health Directorate;

"the Directorate" means the Plant Health Directorate;

"Member State" means a state which is a member of the European Union;

"the Minister" means the Minister responsible for agriculture;

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

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

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

Containment and
eradication.
Amended by:
L.N. 21 of 2011.

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

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

Registration.
Amended by:
L.N. 134 of 2009;
L.N. 21 of 2011.

5. (1) Any person, entity, authority or any other legal entity which is responsible for the property where susceptible plants are situated, is obliged to register such plants with the Directorate.

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

Powers of the
Directorate.
Amended by:
L.N. 21 of 2011.

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

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

- (a) send a seven day notification letter to the occupier, possessor, lessee, resident, owner of the plant or property, where the owner, possessor, lessee, resident or owner is known to the Directorate, informing about the presence or the likely presence of the pest and that action is to be taken within seven days according to the instruction given in the letter; or
- (b) when the occupier, owner, possessor or lessee is unknown to the Directorate, the Directorate shall affix a notice for seven days informing about the presence or the likely presence of the pest, on the façade, wall or border surrounding the property and instructing necessary action to be taken within seven days from the date of the notice.

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

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

(4) The felling of infected susceptible plants and their

subsequent disposal shall be regulated by these regulations and by the Director, who may, from time to time, issue the appropriate method for such felling and disposal, which any person, carrying out such act, shall rigorously adhere to under the supervision of the Directorate.

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

Cap. 9.

(6) All susceptible plants frond pruning or any similar activity shall be carried out in collaboration with and under the supervision of the Directorate which shall give proper and adequate instructions for such pruning. Any such or similar activity cannot be carried out unless a written approval for such pruning or similar activity has been obtained from the Directorate, not less than fifteen days prior to the undertaking of the actual pruning or similar activity to be undertaken.

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

Consultative Board.
Amended by:
L.N. 21 of 2011.

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

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

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

Restriction of activities.

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

Responsibilities of legal entities.
Amended by:
L.N. 21 of 2011.

(2) Failure by such entity, governing body, local council or any other legally constituted body to abide by the Directorate's instructions shall entitle the Director to gain access to any premises and, or property and to take any action which is deemed necessary

in terms of these regulations. All expenses incurred by the Directorate in exercising such action shall be borne solely by the entity, governing body, local council or any other legally constituted body on whose property or premises the plants are found.

Importation and movement.
Amended by:
L.N. 21 of 2011;
L.N. 98 of 2013.

10. (1) The importation of susceptible plants shall only be allowed after the required written approval has been issued by the Directorate at least twenty-four hours before such importation takes place. Such importation shall be in conformity with relevant Maltese legislation and relative EU Directives and Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier).

(2) The movement of susceptible plants shall only be allowed after the required written approval has been issued by the Directorate at least twenty-four hours prior to such movement, except when such movement is made after the selling of such plants within an activity centre, approved by, and registered in, the Malta Official Register. In such case, the Directorate shall be informed about any movement which occurs after such sale within twenty-four hours from the occurrence of such movement. The movement of susceptible plants shall be in conformity with relevant Maltese legislation and relevant EU Directives and Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier).

(3) Failure to obtain such authorisation and, or to adhere strictly to these regulations and to Commission Decision 2007/365/EC and Commission Decision 2010/467/EU as regards the susceptible plants and the measures to be taken in cases where *Rhynchophorus ferrugineus* (Olivier) is detected and their Annexes will entail the person to a penalty in terms of the Act and the forfeiture and destruction of the said susceptible plants.

(4) Without prejudice to preceding sub-regulations, movement of susceptible plants from local registered nurseries and, or garden centres, and, or other approved entities shall only be allowed if such entities are registered with the Directorate to sell palm trees in terms of the Act and any subsidiary legislation made thereunder, and if:

- (a) the susceptible plant has been introduced in Malta from another Member State in accordance with the requirements in point 2 of Annex I of Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier), and shall be:
 - (i) accompanied by a plant passport prepared and issued in accordance with Commission Directive 92/105/EEC establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products

- or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement; and
- (ii) kept in a designated area of complete physical protection of appropriate mesh size in which these plants shall be kept until they are sold in the local market; and
 - (iii) subject to any other control measure or obligations in terms of any guidelines issued by the Directorate, or which the Director may, from time to time, deem necessary to issue; or
- (b) the susceptible plants have been grown locally in a place of production during a period of two years prior to their movement during which:
- (i) the susceptible plants were placed in a site with complete physical protection against the introduction of the specified organism or treated with appropriate preventive chemical treatment; and
 - (ii) no signs of the specified organism have been observed in official inspections carried out at least every three months; and
 - (iii) the susceptible palms were tagged as part of a tagging scheme under the Directorate; and
 - (iv) susceptible plants were subjected to any other control measure or obligation in terms of any guidelines issued by the Directorate, or which the Director may, from time to time, deem necessary to issue. The susceptible plants shall also be accompanied by a plant passport prepared and issued in accordance with Commission Directive 92/105/EEC establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement; or
- (c) the susceptible plants have been imported from a third country, in accordance with requirements of the Act and relative EU Directives and Commission Decision 2007/365/EC on emergency measures to prevent the introduction into, and the spread within, the Community of *Rhynchophorus ferrugineus* (Olivier) and Commission Decision 2010/467/EU as regards the susceptible plants and the measures to be taken in cases where *Rhynchophorus ferrugineus* (Olivier) is detected, and shall be grown locally since their importation in an approved place of production during

which:

- (i) the susceptible plants are kept in a designated area of complete physical protection of appropriate mesh size for one year; and
- (ii) no signs of the specified organism have been observed in official inspections carried out at least every three months; and
- (iii) the susceptible palms are tagged as part of a tagging scheme under the Directorate; and
- (iv) the susceptible plants are subject to any other control measure or obligation in terms of any guidelines issued by the Directorate, or which the Director may, from time to time, deem necessary to issue.

Powers of the
Director.
*Amended by:
L.N. 21 of 2011.*

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

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

(3) Nothing in these regulations shall be construed to contravene the provisions of the Act and regulations thereunder, and, or relative European Union Regulations, Directives and Decisions in particular, but not exclusive of, the Decision taken by the EU Commission dated 25th May, 2007 relating to the Red Palm Weevil [*Rhynchophorus ferrugineus* (Olivier)] and Commission Decision 2010/467/EU as regards the susceptible plants and the measures to be taken in cases where *Rhynchophorus ferrugineus* (Olivier) is detected.

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