



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 714

Cape Town
Kaapstad

20 December 2024

No. 51806

THE PRESIDENCY

No. 5725 20 December 2024

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 35 of 2024: Plant Health (Phytosanitary) Act, 2024

UMENGAMELI

No. 5725 20 Desember 2024

Kuyaziswa ukuba uMongameli uwamkele lo Mthetho ulandelayo, othi upapashwe ukuze ufumane ulwazi ngokubanzi:—

UMthetho onguNombolo 35 ka-2024: Umthetho wempilo yezityalo, 2024

ISSN 1682-5845



9 771682 584003



5 1 8 0 6



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President)
(Assented to 10 December 2024)

ACT

To provide for phytosanitary measures to prevent the introduction, establishment and spread of regulated pests in the Republic; to provide for the control of regulated pests; to provide for regulation of the movement of plants, plant products and other regulated articles into, within and out of the Republic; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1 5

DEFINITIONS

1. Definitions and Interpretations

CHAPTER 2

ADMINISTRATION

2. Responsibility for administration of Act 10
3. Powers of Minister
4. Prescribing of control measures by Minister
5. Designation of executive officer
6. Powers of executive officer
7. Orders with regard to land 15
8. Powers of entry, search, inspection and seizure with regard to land
9. Establishment of National Plant Protection Organisation of South Africa
10. Composition of National Plant Protection Organisation of South Africa
11. Functions of National Plant Protection Organisation of South Africa

CHAPTER 3 20

IMPORTS

12. Regulation of imports
13. Import of regulated articles

CHAPTER 4

EXPORT, RE-EXPORT AND TRANSIT 25

14. Export of regulated articles

(English text signed by the President)
(Assented to 10 December 2024)

UMTHETHO

Ukunika amacebo empilo yezityalo ngelokuthintela ukuvela, ukumiliselwa nokusasazeka kwezinzambuzane kwiRiphabliki; ukunika ulawulo lwezinzambuzane; ukunika ulawulo lokuhanjiswa kwezityalo, iimveliso zezityalo kwakunye nezinye izinto ezilawulwayo ezinxulumeneyo, ngaphakathi nangaphandle kweRiphabliki; kunye nokunika imiba enxulumene noko.

NGOKO KE uza kumiliselwa yiPalamente yoMzantsi Afrika, ngolu hlobo lulandelayo:—

ULUNGELELWANISO LWAMASOLOTYA

Amasolotya

ISAPHLUKO 1 5

IINGCACISO

1. Iingcaciso nokuTolika kwazo

ISAPHLUKO 2

ULAWULO

2. Uxanduva lolawulo loMthetho 10
3. Amandla oMphathiswa
4. Ukuhlahl' iindlela zolawulo nguMphathiswa
5. Ukuthunyelwa kwegosa eliphezulu
6. Amandla egosa eliphezulu
7. Imiyalelo ngokumayelana nomhlaba 15
8. Amandla okungena, okuphanda, ukuhlola nawokuhlwitha ngokumayelana nomhlaba
9. Ukumiliselwa koMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe
10. Ukuyilwa koMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe
11. Imisebenzi yoMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe 20

ISAPHLUKO 3

IIMVELISO ZAMANYE AMAZWE

12. Ulawulo lweemveliso zamanye amazwe
13. Ukungeniswa kweemveliso ezilawulwayo

ISAPHLUKO 4 25

IIMVELISO EZITHUNYELWA KWAMANYE AMAZWE, EZINGENISWAYO ZIZE ZIPHINDE ZITHUNYELWE NOKUHANJISWA KWAZO

14. Ukuthunyelwa kweemveliso ezilawulwayo

15. Re-export
16. In-transit

CHAPTER 5

PEST STATUS AND PHYTOSANITARY PROCEDURES

- | | |
|--|---|
| 17. Declaration of regulated pests | 5 |
| 18. Compulsory notification of presence of pests | |
| 19. Declaration of quarantine areas | |
| 20. Declaration of pest-free areas, places and sites of production | |
| 21. Declaration of area of low pest prevalence | |

CHAPTER 6

10

GENERAL PROVISIONS

- | | |
|---|----|
| 22. Assignment of powers | |
| 23. Right to appeal | |
| 24. Appeal Board, composition and membership | |
| 25. Investigation and consideration by Appeal Board | 15 |
| 26. Consideration of appeal by Minister | |
| 27. Preservation of confidentiality | |
| 28. Offences and penalties | |
| 29. Liability of employer | |
| 30. Regulations | 20 |
| 31. Compensation | |
| 32. Assistance and cooperation | |
| 33. Limitation of liability | |
| 34. Provisions binding State | |
| 35. Application of international agreements | 25 |
| 36. Transitional provisions | |
| 37. Repeal of laws | |
| 38. Short title and commencement | |

SCHEDULE

- | | |
|--------------|----|
| Act repealed | 30 |
|--------------|----|

CHAPTER 1

DEFINITIONS

Definitions and Interpretations

1. (1) In this Act, unless the context indicates otherwise—

“ area of low pest prevalence ” means an area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures;	35
“ assignee ” means a person or juristic person to whom a power or duty has been assigned by the Minister under section 22(1);	40
“ authorised person ” means a person contemplated in section 8(1);	
“ authority ” means, depending on the context—	
(a) an authority granted by the Minister under section 5(2); and	
(b) the Department responsible for agriculture, land reform and rural development;	45
(c) the provincial departments responsible for agriculture, land reform and rural development; and	

15. Ukungeniswa kuze kuphinde kuthunyelwe
16. Ukuhanjiswa

ISAPHLUKO 5**IBAKALA LEZINAMBUZANE KWAKUNYE NEENKQUBO ZEMPILO YEZITYALO 5**

17. Ukubhengezwa kwezinzambuzane ezilawulwayo
18. Ulwaziso olunyanzelekileyo lobukho bezinzambuzane
19. Ukubhengezwa kweendawo zovalelo
20. Ukubhengezwa kweendawo ezingenazo ezi zinzambuzane, iindawo kwakunye namaziko emveliso 10
21. Ukubhengezwa kweendawo apho zimbalwa khona izinzambuzane

ISAPHLUKO 6**IZINDULULO EZITHE GABALALA**

22. Umsebenzi wamandla
23. Ilungelo lokubhena 15
24. IBhunga leziBheno, uqulunqo kwakunye nobulungu
25. Uphando kwakunye nengqwalasela yeBhunga leziBheno
26. Ukuqwalaselwa kwezibheno nguMphathiswa
27. Ukugcina kweendaba izezakwamkhozi
28. Ulwaphulo-mthetho nezohlwayo 20
29. Uxanduva lomqeshi
30. Imiqathango
31. Imbuyekezo
32. Uncedisio nentsebenziswano
33. Imida yoxanduva 25
34. Izindululo ezibophelela uMbuso
35. Isicelo sesivumelwano samazwe ngamazwe
36. Izindululo zonaniselwano
37. Ukucinywa kwemithetho
38. Isihloko esifutshane kunye nexesha lokuqalisa 30

SHEDYULI

UMthetho ucinyiwe

ISAPHLUKO 1**IINGCACISO****Iingcaciso nokuTolika kwazo 35**

1. (1) Kulo Mthetho, ngaphandle kokuba umongo uye wabonisa enye into—
 “iindawo ezinezinzambuzane ezimbalwa” zibhekisa kwiindawo, nokuba lilizwe lonke, inxalenye yelizwe, okanye iindawo ezithile eziliqela zelizwe, nanjengoko ziza kube zityunjiwe ngabasemagunyeni, nalapho uhlobo oluthile lwesinzambuzane luqhambuka khona ngamabakala asezantsi nekungamatile-tile asebenzisayo okujonga, okulawula nokusiphula neengcambu; 40
 “umthunywa” ubhekiswa kumntu okanye umntu ogunyazisiweyo nonikwe amagunya namandla omsebenzi nguMphathiswa ngapha kwesolotya 22(1);
 “umntu ogunyazisiweyo” ubhekisa kulo mntu odakacwe kwisolotya 8(1);
 “igunya” libhekisa, lixhomekeka kumongo— 45
 (a) igunya elinikezwe nguMphathiswa ngaphantsi kwesolotya 5(2); kunye
 (b) neSebe elinoxanduva lolimo, ukutshintshwa kwemihlaba kwakunye nophuhliso lwamaphandle;
 (c) amasebe amaphondo anoxanduva lolimo, ukutshintshwa kwemihlaba kwakunye nophuhliso lwamaphandle; kwakunye 50

- (d) municipal entities responsible for agriculture, land reform and rural development;
- “**commodity**” means a type of plant, plant product or other regulated article being moved for trade or other purpose;
- “**consignment**” means a quantity of plants, plant products or other regulated articles being moved from or to the Republic and covered, when required, by a single phytosanitary certificate; 5
- “**consignment in transit**” means a consignment that passes through a country without being imported and that may be subject to phytosanitary measures;
- “**control**” means the suppression, containment or eradication of a pest population; 10
- “**control measure**” means a control measure prescribed by the Minister under section 4;
- “**Convention**” means the International Plant Protection Convention (IPPC), as deposited in 1951 with the Food and Agriculture Organisation (FAO) in Rome and as subsequently amended from time to time, and which was acceded to by the Republic at its 29th Session in November 1997; 15
- “**conveyance**” means any aircraft, vessel, train, motor car, van, truck, cart or other vehicle, plant or any other regulated article that can act as a pathway for pests;
- “**day**” means any calendar day excluding Saturdays, Sundays and public holidays within the Republic; 20
- “**Department**” means the Department responsible for agriculture, land reform and rural development;
- “**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; 25
- “**eradication**” means the application of phytosanitary measures to eliminate a pest from an area;
- “**establishment**” means the perpetuation, for the foreseeable future, of a pest within an area after entry;
- “**executive officer**” means an officer designated in terms of section 5(1); 30
- “**export**” means to move, or the transboundary movement of, regulated articles from the Republic to any place outside the Republic;
- “**exporter**” means any person who, whether as owner, consignor, agent or broker, is in possession of or in any way entitled to the custody or control of any regulated article to be exported from the Republic; 35
- “**import**” means to move, or the transboundary movement of, regulated articles into the Republic;
- “**importer**” means any person who, whether as owner, 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 imported into the Republic; 40
- “**infestation**” means the presence in a commodity of a living pest of the plant or plant product concerned, and includes infection;
- “**inspection**” means the official visual examination of plants, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary measures; 45
- “**integrity**” means the composition of a consignment as described by its phytosanitary certificate or other officially acceptable document, maintained without loss, addition or substitution;
- “**introduction**” means the entry of a pest which may result in its establishment;
- “**juristic person**” means any organisation, partnership, corporation, association, joint venture, or other legal entity; 50
- “**Minister**” means the Minister responsible for agriculture, land reform and rural development;
- “**National Plant Protection Organisation of South Africa**” means the organisation designated under section 9 to discharge the functions specified under section 11; 55

- (d) namaqumrhu kamasipala anoxanduva lolimo, ukutshintshwa kwemihlaba kwakunye nophuhliso lwamaphandle;
- “**imveliso ekrwada**” ibhekisa kuhlobo lwesityalo, imveliso yesityalo okanye ezinye iimveliso ezilawulwayo zihanjiswe ngelokuthengiswa okanye ngezinye iinjongo;
- “**umthwalo**” ubhekisa kumgangatho wezityalo, iimveliso zezityalo okanye ezinye iimveliso ezilawulwayo ezisuswa okanye ezingeniswa kwiRiphabliki zibhangqiwe, xa zifunwa, ngesatifiketi sempilo yezityalo esinye;
- “**imithwalo ehanjiswayo**” ibhekisa kwegqithiswa elizweni ngaphandle kokungeniswa nekungafuneka ilandele imiqathango yempilo yezityalo;
- “**ulawulo**” lubhekisa kucinezelo, kugcino okanye kusiphulo lwezinzambuzane;
- “**imiqathango yolawulo**” ibhekisa kwiqathango yolawulo eqingqwe nguMphathiswa ngaphantsi kwesolotya 4;
- “**Ingqungquthela**” ibhekisa kwiNgqungquthela yeHlabathi yoKhuselo lweZityalo (IPPC), nanjengoko yaqulunqwa ngo-1951 kunye noMbutho weZolimo noKutya (FAO), eRome yaze kwananjalo yamane ihlonjwa amaxesha ngamaxesha, yaze yavunyelwa kwiRiphabliki kwiSeshoni yayo yama-29 kweyeNkanga ngo-1997;
- “**uhanjiso**” lubhekisa kwinqwelo-moya, iqegu, uloliwe, imoto, iveni, iloli, inqwelo okanye ezinye iinqwelo, izityalo okanye naziphi na iimveliso ezilawulwayo ezingasebenza njendlela yokuhanjiswa kwezinzambuzane;
- “**usuku**” naluphi na usuku lwekhalenda ngaphandle kweMigqibelo, iiCawe neeholide apha kwiRiphabliki;
- “**Isebe**” libhekisa kwiSebe elinoxanduva lolimo, ukutshintshwa komhlaba kwakunye nophuhliso lwamaphandle;
- “**izindululo zongxamiseko**” zibhekisa kwizisombululo zempilo yezityalo ezimiliselweyo njengongxamiseko kwimeko entsha okanye engalindelekanga yempilo yezityalo, nekungenzeka ayonxalenye yezindululo ezikhoyo;
- “**ukusiphula**” kubhekisa ekwenziweni kwamatile-tile empilo yezityalo okuphelisa izinzambuzane kwingingqi;
- “**umilisele**” lubhekisa kugcino, kulungiselelwa ingomso ezinzambuzane kwingingqi emva kokungeniswa;
- “**igosa eliphezulu**” libhekisa kwigosa elithunyiweyo ngokwemimisele yesolotya 5(1);
- “**ukuthunyelwa kwemveliso**” kubhekisa ekuhanjiseni, okanye kutsityiso lwemida lweemveliso ezilawulwayo zisuka kwiRiphabliki zisiya kuyo nayiphi na enye indawo engaphandle kweRiphabliki;
- “**umthumeli wemveliso**” ubhekisa kuye nabantu na, nokuba ngumnini, ngumthumeli, yi-arhente okanye ngumququzeleli oneemveliso ezilawulwayo ekumele zithunyelwe kwamanye amazwe zisuka kwiRiphabliki;
- “**imveliso esuka kwamanye amazwe**” ibhekisa ekuhanjiseni, okanye kutsityiso lwemida lweemveliso ezilawulwayo zingeniswa kwiRiphabliki;
- “**umamkeli-mveliso**” ubhekisa kuye nabani na ongumnini, ongumamkeli weemveliso, kwi-arhente okanye kumququzeleli, onamandla okanye ulawulo lwaso nasiphi na isityalo, imveliso yesityalo okanye izityalo ezilawulwayo ukuze zingeniswe kwiRiphabliki;
- “**ukuqhambuka**” kuthetha ubukho bezinzambuzane eziphilayo ezikrwada kwesityalo okanye kwimveliso yesityalo ekujongwe kuyo, kwaye kuquka ulwasuleleko;
- “**uhlolo**” lubhekisa kuvavanyo olusesikweni lokujonga izityalo, iimveliso zezityalo okanye ezinye iimveliso ezilawulwayo ukuze kukwazeke ukubonwa ubukho bezinzambuzane okanye kuthotywe imiqathango yezindululo zempilo yezityalo;
- “**ukunyaniseka**” kubhekisa ekubotshweni kwemithwalo nanjengoko kucacisiwe kwisatifiketi sempilo yezityalo okanye kwamanye amaxwebhu amkelekileyo ngokusesikweni, ogcinekileyo ngaphandle kwelahleko, ukongezwa okanye ukutshintshwa;
- “**ulwaziso**” lubhekisa kungeniso lwezinzambuzane nolungabangela umilisele lwalo;
- “**ibhunga lolawulo**” libhekisa kumbutho, ubudlelwane, ukhopoletyeni, ibhunga, intsebenziswano okanye amaqumrhu omthetho;
- “**uMphathiswa**” nguMphathiswa wezolimo, ukutshintshwa komhlaba kunye nophuhliso lwamaphandle;
- “**uMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe**” ubhekisa kumbutho omiliselwe ngaphantsi kwesolotya 9 ukuba wenze imisebenzi ekhethekileyo engaphantsi kwesolotya 11;
- “**igosa**” libhekisa kwigosa okanye umsebenzi nanjengoko ecacisiwe kwisolotya 1 loMthetho weeNkonzo zoLuntu, ka-1994 (isiBhengezo No. 103 sika-1994);

- “**officer**” means an officer or employee as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
- “**order**” means an order given by the executive officer in terms of section 7;
- “**organ of state**” means—
- (a) any department of state or administration in the national, provincial or local sphere of government; or
 - (b) any other functionary or institution—
 - (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public duty in terms of any legislation, but does not include a court or judicial officer;
- “**organism**” means any biotic entity capable of reproduction or replication in its naturally occurring state;
- “**pathway**” refers to any means that allows the entry or spread of a pest;
- “**permit**” means any authorisation, issued under this Act, to move plants, plant products or other regulated articles in accordance with phytosanitary measures prescribed by this Act, and includes “phytosanitary certificate” and “import permit”;
- “**pest**” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;
- “**pest-free area**” means an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained;
- “**pest-free place of production**” means a place of production in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained;
- “**pest-free production site**” means a defined portion of a place of production in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained for a defined period and that is managed as a separate unit in the same way as a pest-free place of production;
- “**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 phytosanitary measures;
- “**phytosanitary certificate**” means an official document that attests to the phytosanitary status of any consignment affected by phytosanitary regulations, patterned after the model certificates of the IPPC;
- “**phytosanitary import requirements**” means specific phytosanitary measures established by an importing country concerning consignments moving into that country;
- “**phytosanitary measures**” means those measures, regulations or procedures provided for by this Act having the purpose to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests;
- “**phytosanitary security**”, in relation to a consignment, means the maintenance of integrity and prevention of re-infestation after phytosanitary certification and prior to export;
- “**plant**” means any living plant and parts of it, including seeds and germplasm;
- “**plant products**” means any unmanufactured material of plant origin, including grain, and those manufactured products which, by their nature or that of their processing, may create a risk for the introduction and spread of pests;
- “**point of entry**” means an airport, seaport or land border point officially designated or prescribed for the importation of consignments, or entrance of passengers;
- “**point of exit**” means an airport, seaport or land border point or a point designated or prescribed for the exportation of consignments, or exit of passengers;
- “**prescribed**” means prescribed by any accompanying regulations or control measures;
- “**provisional measure**” means a phytosanitary regulation or procedure established without full technical justification owing to a current lack of adequate information;
- “**quarantine**” means official confinement of regulated articles for observation and research or for further inspection, testing or treatment;
- “**quarantine area**” means an area determined by order under section 19(1) within which a quarantine pest is present and is being officially controlled;
- “**quarantine facility**” means an official facility for holding plants or plant products in quarantine;

- “umyalelo”** ubhekisa kumyalelo onikezwe ligosa eliphezulu ngokwemimiselo yesoloty 7;
- “izigaba zikarhulumente”** zibhekisa—
- (a) kulo naliphi na isebe likarhulumente okanye ulawulo lwesizwe, amaphondo okanye oorhulumente basemakhaya; okanye 5
 - (b) nawo namaphi na amaqumrhu okanye amaziko—
 - (i) asebenzisa amandla okanye enza umsebenzi ngokwemimiselo yoMgaqo-siseko okanye umgaqo-siseko wephondo; okanye
 - (ii) asebenzisa igunya loluntu okanye enza imisebenzi yoluntu ngokwemimiselo yowiso-mthetho, kodwa oku akuyiquki inkundla yegosa lomthetho; 10
- “okwendalo”** kubhekisa kwiqumrhu lwezinto eziphilayo ezinako ukuzala okanye ukuziphinda-phinda;
- “indlela”** ibhekisa kuyo nayiphi na indlela evumela ukungeniswa okanye ukusasazeka kwezinzambuzane; 15
- “imvume”** ibhekisa kuso nasiphi na isigunyaziso, esikhutshwe ngaphantsi kwalo Mthetho, sokuhanjiswa kwezityalo, iimveliso zezityalo okanye iimveliso ezilawulwayo ngokuhambelana nezindululo zempilo yezityalo nanjengoko kucacisiwe ngulo Mthetho, kwaye siquka “isatifiketi sempilo yezityalo” kwakunye “nemvume yokwamkela iimveliso zangaphandle”; 20
- “izinambuzane”** zibhekisa kwintlobo ethile yendalo, intlobo enomnombo omnye wezityalo, izilwanyana okanye izihambisi ntsholongwane kwizityalo okanye iimveliso zezityalo;
- “iindawo ezingenazo izinambuzane”** zibhekisa kwiindawo apho uhlobo oluthile lwesinzambuzane lungafumanekiyo khona nanjengoko kuboniswa bubungqina benzululwazi kwaye nalapho, ukuba kuyenzeka, le meko ijongwe ngokusesikweni; 25
- “iindawo ezingenayo imveliso yezinambuzane”** zibhekisa kwindawo yemveliso nalapho izinambuzane ezithile zingafumanekiyo nanjengoko kuboniswa bubungqina benzululwazi, nalapho ukuba kuyenzeka, le meko ijongwe ngokusesikweni;
- “iindawo zemveliso ezingenazo izinambuzane”** zibhekisa kwindawana ecacisiweyo yemveliso nalapho izinambuzane ezithile zingekhoyo nanjengoko kuboniswa bubungqina benzululwazi kwaye nalapho, ukuba kuyenzeka, le meko ijongwe ngokusesikweni ixesha elithile elidakaciweyo kwaye oko kuphethwe njengecandelo elahlukileyo ngendlela enye naleya yeendawo ezingenazo iimveliso zezinambuzane; 30
- “uphononongo lobungozi bezinambuzane”** lubhekisa kuphononongo lwenzululwazi nobungqina boqoqosho obuqingqwa kukuba ingaba isinambuzane kumele silawulwe na kwakunye namandla azo naziphi na izindululo zempilo yezityalo ekumele isetyenziswe ukuqubisana noku; 35
- “inyathelo lempilo yezityalo”** libhekisa kumsebenzi osesikweni, ofana nophononongo, uvavanyo, ukujongwa okanye unyango, oluthatyathiweyo ukwenza izindululo zempilo yezityalo; 40
- “isatifiketi sempilo yezityalo”** sibhekisa kuxwebhu olusesikweni elingqinelana nebakala lempilo yezityalo yayo nayiphi na echatshazelwa yimiqathango yempilo yezityalo, ezichankathe kumzila wezatifiketi ze-IPPC;
- “iimfuno zokuba ngumamkeli weemveliso ezisuka kwamanye amazwe zempilo yezityalo”** zibhekisa kwizindulo zempilo yezityalo ezimiliselwe lilizwe elamkela iimveliso ezingeniswa kwelo lizwe; 45
- “izindululo zempilo yezityalo”** zibhekisa kwezo zindululo, loo miqathango okanye iinkqubo ezinikiweyo ngulo Mthetho zinenjongo yokuthintela ukwaziswa okanye ukusasazwa kwezinzambuzane ezivalelweyo elugcinweni okanye ukuphungula igalelo lezoqoqosho lwezinzambuzane ezilawulwayo nezingavalelwanga elugcinweni; 50
- “ukhuseleko lwempilo yendalo”**, ngokumayelana nemithwalo, lubhekisa ekugcinweni lokunyaniseka nokugcinwa kokuqhambuka kwakhona emva kokuba isatifiketi sempilo yezityalo kunye ngaphambili kokuthunyelwa kwamanye amazwe; 55
- “isityalo”** sibhekisa kuso nasiphi na isityalo esiphilayo namalungu aso, aquka iimbewu kunye nomnombo;
- “iimveliso zesityalo”** zibhekisa kuyo nayiphi na imveliso engenziwanga ngesandla nentsusa yayo isisityalo, oku kuquka neenkonzo, kwakunye nezo mveliso ezenzwe ngezandla, nongafumanisa ukuba ngendalo yazo okanye ngenkqubo yazo yocolo, zidala ingozi yokwaziswa nokusasazeka kwezinzambuzane; 60

- “**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**” means an imported consignment into the Republic from which it is then exported; 5
- “**regulated area**” means an area into which, within which or from which plants, plant products and other regulated articles are subjected to phytosanitary measures or procedures in order to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests;
- “**regulated article**” means any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved; 10
- “**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 and which is therefore regulated within the Republic; 15
- “**regulated pest**” means a quarantine pest or a regulated non-quarantine pest;
- “**regulation**” means regulations made under section 30;
- “**spread**” means the expansion of the geographical distribution of a pest within an area;
- “**surveillance**” means an official process of surveying, monitoring or other procedures in order to collect and record data on the occurrence or absence of pests; 20
- “**technically justified**” means justified on the basis of conclusions reached by using an appropriate pest risk analysis or, where applicable, another comparable examination and evaluation of available scientific information;
- “**test**” means an official examination, other than visual, to determine if pests are present or to identify pests; 25
- “**this Act**” means the Plant Health (Phytosanitary) Act;
- “**treatment**” means an official procedure for the killing, inactivation or removal of pests, or for rendering pests infertile or for devitalisation;
- “**user of land**” means an owner of land, and includes— 30
- (a) a person who has a personal or real right in respect of land in his or her capacity of fiduciary, fidei-commissary, holder of a servitude, possessor, lessee or occupier, irrespective of whether he or she resides on it;
 - (b) a person who has the right to cut trees or wood on land or to remove trees, wood or other organic material from land; 35
 - (c) a person who has the right to remove sand, soil, clay, stone or gravel from land; and

- “**iindawo zokungena**” zibhekisa kwizikhululo zeenqwelo-moya, amachweba okanye imida esikiweyo okanye iindawo ezaziwayo ukuba zezokungena kweemithwalo, okanye iindawo zokungena abakhweli;
- “**iindawo zokuphuma**” zibhekisa kwizikhululo zeenqwelo-moya, amachweba okanye imida esikiweyo okanye iindawo ezaziwayo ukuba zezokukhuph imithwalo, okanye iindawo zokuphuma abakhweli; 5
- “**okuyalelweyo**” kubhekisa kwiqathango ekhaphayo okanye izindululo zolawulo;
- “**izimiqathango ebekiweyo**” abhekisa kwimiqathango yempilo yezityalo okanye iinkqubo ezimiliselweyo ngaphandle kobungcaphephe obupheleleyo obubhekisele kulwazi olukhoyo ngelo xesha; 10
- “**ukuvallelwa**” kubhekisa kugcino labucala olusesikweni lweemveliso ezilawulwayo ukuze zijongwe kwaye ziphandwe okanye ziphononongwe, zivavanywe okanye zinyangwe ngakumbi;
- “**iindawo yovalelo**” ibhekisa kwindawo eqingqwe ngaphantsi kwesolotya 19(1) nalapho lukhoyo khona uvalelo lwezinzambuzane kwaye lulawulwa ngokusesikweni; 15
- “**iziko lovalelo**” libhekisa kwiziko elisesikweni lokugcina izityalo okanye iimveliso zezityalo eluvalelweni;
- “**izinambuzane ezivalelweyo**” zibhekisa kwizinambuzane ekungenzeka zibaluleke ngokoqoqosho kwindawo enobungozi kwaye zibe zingekabikho kuloo ndawo okanye zikhona kodwa zingasasazekanga kakhulu kwaye zilawulwa ngokusesikweni; 20
- “**ukungeniswa nokuthunyelwa**” kuthetha ukungeniswa kwemithwalo kwiRiphabliki ize iphinde ithunyelwe kwamanye amazwe;
- “**iindawo elawulwayo**” ibhekisa kwindawo apho izityalo, iimveliso zezityalo nezinye iimveliso ezilawulwayo zixhomekeke kwimpilo yezityalo okanye kwiinkqubo ukuze kuthintelwe ukwaziswa okanye ukusasazeka kwezinzambuzane eziseluvalelweni okanye ukucutha igalelo lezinambuzane ezilawulwayo nezingavalelwanga; 25
- “**isityalo esilawulwayo**” sibhekisa kuso nasiphi na isityalo, imveliso yesityalo, indawo yocino, upakisho, ukuhanjiswa, amagqongo okufaka, umhlaba nayo nayiphi na into yendalo ephilayo, izinto okanye izixhobo ezinako ukugcina okanye ukusasazi izinambuzane, ezibonwe njengezifuna ungenelelo lwempilo yendalo, ingakumbi xa luchaphazeleka uhanjiso lwamazwe ngamazwe; 30
- “**izinambuzane ezilawulwayo nezingekho seluvalelweni**” zibhekisa kwizinambuzane ezingekho seluvalelweni nobukho bazo ezityalweni zenzelwe ukutyala owona msebenzi wezo zityalo ezinegalelo loqoqosho elingamkelekanga kwaye neziye zilawulwe ke ngoko kwalapha ngaphakathi kwiRiphabliki; 35
- “**isinambuzane esilawulwayo**” sibhekisa kwisinambuzane esivalelwayo okanye kwisinambuzane esilawulwayo esingavalelwayo;
- “**ulawulo**” lubhekisa kwimiqathango eyenziwe ngaphantsi kwesolotya 30;
- “**ukusasaza**” kubhekisa ekwandeni kwendawo ekusasazeka kuzo izinambuzane kwindawo ethile; 40
- “**ukujonga**” kubhekisa kwinkqubo esesikweni yokujonga, ukugada okanye ezinye iinkqubo ukuze kuqokelelwe kuze kushicilelwe iinkcukacha ekuqhambukeni nasekunqabeni kwezinzambuzane;
- “**ukuthetheleleka ngokweengcali**” kubhekisa kwiziphumo zophando olusekelezwe kwizigqibo ekufikelelwe kuzo ngokusetyenziswa kophicotho olululo lobungozi lwezinzambuzane, apho kunemfuneko khona, olunye uviwo lokuthetheleka nokuphonononga ukuba zikhona iinkcukacha zenzululwazi; 45
- “**uvavanyo**” lubhekisa kuviwo olusesikweni, ngaphandle kwelokujonga ngamehlo, elokuqingqa ukuba izinambuzane zikhona okanye elokuqaphela izinambuzane;
- “**lo Mthetho**” ubhekisa kuMthetho weMpilo yeZityalo; 50
- “**unyango**” lubhekisa kwinkqubo esesikweni yokubulala, yokudodabalisa okanye yokususa izinambuzane, okanye ukuqokra inzala yezinzambuzane okanye ukuyicutha;
- “**umsebenzisi womhlaba**” ubhekisa kumnini-mhlaba, kwaye oku kuquka—
- (a) umntu obolekiweyo okanye onelungelo lokwenene lomhlaba oselulawulweni lwakhe, ngelifa, ngobukhoboka, ngothinjo, ngokuqasha okanye ngokuzihlalela, nokuba uyahlala okanye akahlali kuwo; 55
 - (b) umntu onelungelo logawula imithi okanye iinkuni kuloo mhlaba okanye ukususa, iinkuni okanye izinto ezizikhulelayo emhlabeni;
 - (c) umntu onelungelo lokususa isanti, umhlaba, udaka, ilitye okanye igrabile kuloo mhlaba; kwakunye 60

(d) a person who carries on prospecting or mining activities on land; and
 “**visual examination**” means the physical examination of plants, plant products or other regulated articles using the unaided eye, lens, stereoscope or microscope to detect pests without testing or processing.

(2) Where a provision of this Act is in conflict with any other law on plant health, the provision of this Act prevails. 5

CHAPTER 2

ADMINISTRATION

Responsibility for administration of Act

2. The primary responsibility for the administration of this Act lies with the Minister. 10

Powers of Minister

3. (1) The Minister may, out of funds appropriated by Parliament for that purpose, perform any act on or with respect to land that is necessary to—

- (a) carry out the provisions of a control measure or an order where the user of land concerned refuses or neglects to do so; 15
- (b) release on, or remove or eradicate from, land an organism imported in terms of section 13(5);
- (c) control regulated pests; and
- (d) further the objectives of this Act.

(2) The Minister may, on application, authorise a person or juristic person to perform at the expense of that person or juristic person and subject to the control and instruction of the Minister, the acts referred to in subsection (1)(a), and such a person or juristic person has no recourse against the State for expenses so incurred. 20

(3) The Minister may, by notice in the *Gazette*, prescribe control measures which must be complied with or carried out by a user of land in terms of section 4. 25

(4) The Minister may make regulations in terms of section 30.

Prescribing of control measures by Minister

4. (1) The Minister may, by notice in the *Gazette*, prescribe control measures which must be complied with or carried out by a user of land.

(2) Control measures may relate to— 30

- (a) the control of regulated pests;
- (b) the keeping, planting or cultivation of plants;
- (c) the keeping of regulated articles;
- (d) the removal of regulated articles from land within a specified area to— 35
 - (i) other land within the same area; or
 - (ii) other land within any other specified area;
- (e) the notification of the occurrence of regulated pests; or
- (f) any other matter which may be necessary or expedient to prescribe in order to further the objectives of this Act, and the generality of the power conferred by this paragraph may not be limited by the preceding paragraphs. 40

(3) Control measures must—

- (a) contain a prohibition or obligation with regard to any matter referred to in subsection (2);
- (b) provide that the executive officer may, upon application by a person, exempt that person from the prohibition or obligation by means of a permit; and 45
- (c) prescribe fees payable by a person applying for a permit referred to in paragraph (b).

(4) Different control measures may be prescribed in respect of different regulated pests, different areas or different circumstances or in such other respect as may be necessary. 50

(d) nomntu osebenza okanye owomba izimbiwa kuloo mhlaba; kwaye “**uwiwo ngamehlo**” lubhekisa kuwiwo ngesiqu lwezityalo, iimveliso zezityalo okanye izityalo ezilawulwayo kusetyenziswa iliso lendalo, ilensi okanye izinto zokuxilonga ukuze kubhaqwe izinambuzane ngaphandle kovavanyo okanye ukwenziwa kwenkqubo yocolo.

5

(2) Apho izindululo zalo Mthetho ziphikisana nawo nawuphi na umthetho wempilo yezityalo, izindululo zalo Mthetho eziza kusebenza.

ISAHLUKO 2

ULAWULO

Uxanduva lolawulo loMthetho

10

2. Uxanduva lokuqala lokwenziwa kwalo Mthetho luxhomekeke kuMphathiswa.

Amandla oMphathiswa

3. (1) UMphathiswa unako, ngemali eyabelwe yiPalemente ngenxa yaloo njongo, ukwenza nasiphi na isenzo okanye esimayelana nomhlaba esinyanzelekileyo ukuze—

- (a) kwenzeke izindululo zolawulo okanye umyalelo apho umsebenzi womhlaba ekujoliswe kuwo esala okanye ekubethisa ngoyaba oku; 15
- (b) akhulule, okanye asuse okanye asiphule emhlabeni izinto zendalo ezisuka kwamanye amazwe ngokwemimiselo yesolotya 13(5);
- (c) alawule izinambuzane ezilawulwayo; kunye
- (d) neminye imisebenzi yalo Mthetho. 20

(2) UMphathiswa unako, ngesicelo, ukugunyazisa umntu okanye umbutho ukuba enze ngeendleko zakhe loo mntu okanye loo mbutho kwaye ngokuxhomekeke kulawulo kunye nomyalelo woMphathiswa, isenzo ekubhekiswa kuso kwisolotyana (1)(a), kwaye loo mntu okanye loo mbutho akanabango kuMbuso ngeendleko adibana nazo.

(3) UMphathiswa unako, ngesaziso kwiGazethi, ukuyalela izisombululo zolawulo ekumele zithotywe okanye zilandelwe ngumsebenzisi womhlaba ngokwemimiselo yesolotya 4. 25

(4) UMphathiswa unako ukwenza imiqathango ngokwemimiselo yesolotya 30.

Ukuhlahl' iindlela zolawulo nguMphathiswa

4. (1) UMphathiswa unako, ngesaziso kwiGazethi, ukuyalela izisombululo zolawulo ekumele zithotywe okanye zilandelwe ngumsebenzi womhlaba. 30

(2) Izisombululo zolawulo zingamayelana—

- (a) nolawulo lwezinzambuzane ezilawulwayo;
- (b) nokugcinwa, ukutyalwa okanye ukuhlakulelwa kwezityalo;
- (c) nokugcinwa kweemveliso zezityalo ezilawulwayo; 35
- (d) nokususwa kweemveliso zezityalo ezilawulwayo emhlabeni kwindawana ethile ekhethekileyo zisiwe—
 - (i) komnye umhlaba kwalapha kule ndawo inye; okanye
 - (ii) komnye umhlaba kwalapha kwindawo ethile;
- (e) nesaziso sokuqumbuka kwezinzambuzane ezilawulwayo; okanye 40
- (f) nawo nawuphi na omnye umba onyanzelekileyo okanye otshis' ibunzi ukuba kwenziwe umyalelo wokuhambisa umsebenzi walo Mthetho, kwakunye nobugabalala bamandla abekwe ngulo mhlathi awanakuthezwa amandla yimihlathi engaphambili.

(3) Izisombululo zolawulo kumele— 45

- (a) ziqulathe izithintelo okanye imigqaliselo emayelana nawo nawuphi na umba ekubhekiswa kuwo kwisolotyana (2);
- (b) zibe nendawo etshoyo ukuba igosa eliphezulu linako, ngokufakwa kwesicelo ngumntu, ukususa kuloo mntu izithintelo okanye imigqaliselo ngokumnikeza imvume; kwaye 50
- (c) acime iindleko ekumele zihlawulwe ngumntu ofake isicelo semvume ekubhekiswa kuso kumhlathi (b).

(4) Izisombululo zolawulo ezahlukeneyo zingenziwa ngokumayelana nezinambuzane ezilawulwayo ezahlukeneyo, iindawo ezahlukeneyo okanye iimeko ezingafaniyo okanye nezinye izinto ezingaba sisinyanzeliso. 55

Designation of executive officer

5. (1) The Minister must designate the director in the department responsible for phytosanitary measures as the executive officer.

(2) The executive officer is the authority to whom the provision of phytosanitary measures is entrusted and must exercise the powers and perform the duties conferred or imposed upon the executive officer under this Act. 5

Powers of executive officer

6. (1)(a) The executive officer may delegate to any officer of the Department, or with the approval of the Minister to any juristic person, any power conferred upon him or her by or under this Act. 10

(b) Any decision made or order given by any such officer or any such juristic person must be regarded as having been made by the executive officer.

(c) Any decision or order of such an officer or any such juristic person may at any time be withdrawn or amended in writing by the executive officer.

(2) If the executive officer ascertains, or suspects on reasonable grounds, that regulated articles have been or will be imported into the Republic contrary to this Act, or have been or will be exported out of the country, or that regulated articles are infested, or have been moved or will be moved from a declared infested area to a non-infested area within the Republic, the executive officer may— 15

(a) order the person in charge of the conveyance by which the regulated articles have been or will be imported or conveyed, that such articles or part of them as he or she may determine— 20

(i) not be off-loaded;

(ii) not be conveyed any further; or

(iii) be off-loaded at any place determined by the executive officer; 25

(b) order the person in control of the regulated articles, or the person by whom or on whose behalf the regulated articles have been or will be imported or conveyed, or the person in possession or in charge of the regulated articles or part of such article, to remove from the Republic, destroy, treat, detain or deal with the regulated articles in the manner, at the place and within the period determined by the executive officer; 30

(c) destroy or cause to destroy the regulated articles or part of them as he or she may determine after notifying, in writing, the person in control or in charge of the regulated articles, or by whom or on whose behalf the regulated articles have been imported: Provided that where the destruction of the regulated articles is urgently required or the giving of notice is impractical, notice need not be given; 35

(d) search any person, personal luggage or conveyance;

(e) where a person does not comply with the provisions in paragraph (a) or (b), destroy or cause to destroy the regulated articles; or 40

(f) order the owner or person in possession or in charge of the regulated articles, including any articles produced through, or acquired through, from or by means of the regulated articles, to deal with those articles as provided in paragraph (b) irrespective of the degree of descent or relationship concerned, or the connection between the regulated articles. 45

(3) The executive officer may institute an inquiry and request information and documentation from any person, to exercise his or her powers or perform his or her duties.

(4) The executive officer may inspect, sample, test or investigate regulated articles and conduct surveillances. 50

(5) The executive officer may audit delegates or assignees.

(6) The executive officer may issue or grant any order or relevant permit, including a phytosanitary certificate.

(7) When the executive officer issues or grants an order or relevant permit subject to technically justifiable conditions, he or she may at any time— 55

(a) amend the provisions or conditions concerned; or

(b) withdraw the order or relevant permit in writing.

Ukuthunyelwa kwegosa eliphezulu

5. (1) UMphathiswa kumele athumele umlawuli kwisebe elijongene nempilo yezityalo njengegosa eliphezulu.

(2) Igosa eliphezulu sisiphatha-mandla nalapho izindululo zempilo yezityalo zithwaliswe yena kwaye kumele lisebenzise amandla alo okwenza imisebenzi eliyisikelweyo okanye eliyinikiweyo njengegosa eliphezulu ngaphantsi kwalo Mthetho. 5

Amandla egosa eliphezulu

6. (1)(a) Igosa eliphezulu linako ukuthumela naliphi na igosa leSebe, okanye ngemvume yoMphathiswa ukuya nakowuphi na umbutho olawulwayo, nawaphi na amandla ombhathiswe wona ngaphantsi kwalo Mthetho. 10

(b) Nasiphi na isigqibo esenziweyo okanye umyalelo onikiweyo kwelo gosa okanye kuloo mbutho kumele uthathwe njengowenziwe ligosa eliphezulu.

(c) Naisiphi na isigqibo okanye umyalelo wegosa elinjalo okanye umbutho onjalo unako nanini na ukurhoxiswa okanye ukuhlonyelwa ngokubhalwe phantsi ligosa eliphezulu. 15

(2) Ukuba igosa eliphezulu lifumanisa, okanye likrokrela ngezizathu ezibambekayo, ukuba iimveliso zezityalo ezilawulwayo zingenisiwe okanye ziseza kungeniswe kwiRiphabliki ngokuchasene nalo Mthetho, okanye ziye zathunyelwa okanye ziseza kuthunyelwa ngaphandle kweli lizwe, okanye ukuba iimveliso zezityalo ezilawulwayo ziqhambuke, okanye zisusiwe okanye ziza kususwa kwindawo ebezibhengezwe njengeziqhambuke kuyo zisiwe kwindawo ezingaqhambukanga kuyo kwalapha kwiRiphabliki, igosa eliphezulu linako— 20

(a) ukuyalela umntu ophethe isithuthi ebeziza kuhanjiswa okanye eziza kuhanjiswa ngaso iimveliso zezityalo ezilawulwayo, ukuba ezo mveliso okanye inxalenye yazo ngokubona kwakhe, kumele— 25

(i) zingothulwa;

(ii) zingahanjiselwa phambili; okanye

(iii) zothulwe nakweyiphi na indawo eyalelwe ligosa eliphezulu;

(b) ukuyalela umntu olawula ezi mveliso, okanye umntu omele ezo mveliso zilawulwayo eziza kungeniswa okanye zihanjiswe, okanye umntu ezikuye okanye oziphetheyo ezi mveliso zilawulwayo okanye inxalenye yeemveliso, ukuba azisuse kwiRiphabliki, azitshabalalise, azinyange, azivalele okanye aqubisane neemveliso zezityalo ezilawulwayo ngendlela, kwindawo kwaye ngexesha eliqingqwe ligosa eliphezulu; 30

(c) ukutshabalalisa okanye enze kutshabalale iimveliso zezityalo ezilawulwayo okanye inxalenye yazo nanjengoko eza kubona emva kokuqaphela, ngembalelwano, umntu onolawulo lweemveliso zezityalo ezilawulwayo, okanye omele iimveliso zezityalo ezisuka kwelinye ilizwe: Ukuba kuthe kwenzeka ukuba ukutshatyalaliswa kweemveliso ezilawulwauo kufuneka ngephanyazo okanye ukunikwa kwesaziso akwenzeki, isaziso akumelanga sikhutshwe; 40

(d) ukumpampatha nawuphi na umntu, umthwalo wakhe okanye inqwelo;

(e) apho umntu engafuni ukuthobela izindululo zomhlathi (a) okanye (b), ukutshabalalisa okanye enze kutshabalale iimveliso ezilawulwayo; okanye

(f) ayalele umntu okanye umntu ofunyenwe nazo okanye omele iimveliso ezilawulwayo, okanye ezifunyenwe ngaye, ukuba aqubisane nezo mveliso nanjengoko kuqulathiwe kumhlathi (b) nokuba ufaneleke kangakanani okanye ubudlelwane buthini na, okanye unxibelelwano phakathi kwezi mveliso zezityalo zilawulwayo. 45

(3) Igosa eliphezulu linako ukuqalisa uphando lize licele ulwazi kunye namaxwebhu kuye nabani na, ukusebenzisa amagunya alo okwenza umsebenzi wakhe. 50

(4) Igosa eliphezulu linako ukuhlola, lithelekise, livavanye okanye liphande iimveliso ezilawulwayo lize lenze ujongo.

(5) Igosa eliphezulu linako ukuphicotha abathunywa okanye izithunywa.

(6) Igosa eliphezulu linako ukukhupha okanye ukunika umyalelo okanye imvume efanelekileyo, oko kuquka nesatifiketi sempilo yezityalo. 55

(7) Apho igosa eliphezulu lithe lakhupha okanye lanikeza imvume ngokuxhomekeka kwimibandela ethethelekayo, unako nanini na—

(a) ukuhlomela izindululo okanye imibandela ekubhekiswa kuyo; okanye

(b) ukurhoxisa umyalelo okanye imvume ngembalelwano. 60

(8) In a case where the executive officer issues or grants an order or relevant permit, he or she may at any time, on application, determine points of entry or exit other than the points of entry or exit prescribed in terms of this Act.

(9) The executive officer or an official who has been—

- (a) delegated for this purpose under this Act; or 5
- (b) declared to be a peace officer under section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 55 of 1977), may issue an admission of guilt fine not exceeding R2500, as prescribed, to anyone who contravenes the provisions of sections 4 and 7.

(10) For the purpose of this section, “detain” means keeping a consignment in official custody or confinement as a phytosanitary measure. 10

Orders with regard to land

7. (1) The executive officer may, by written order, which must be served in the prescribed manner, instruct a user of land to observe or carry out the provisions of a particular control measure on or with respect to any quarantine area or regulated area determined in that order. 15

(2) Such an order may provide that anything required in terms of the order, must be done or omitted in the manner or within or during the period mentioned in it.

(3) The executive officer may, upon application by the user of land concerned and against payment of the prescribed fees, if any, withdraw or amend an order, and for that purpose carry out the necessary inspection of the quarantine area or regulated area. 20

(4)(a) Despite a prohibition in an order referred to in subsection (1), the executive officer may, in writing, authorise a user of land to remove a regulated article from the quarantine area or regulated area concerned in order to treat, eradicate or destroy it or dispose of it. 25

(b) An application for an authorisation contemplated in paragraph (a) must be submitted in the prescribed manner to the executive officer.

Powers of entry, search, inspection and seizure with regard to land

8. (1) A person authorised by the Minister to perform an act under section 3(2) may on the authority of a warrant at any reasonable time enter upon or proceed over land to perform that act on or in connection with that land or other land. 30

(2) The person contemplated in subsection (1) may—

- (a) after having notified the user of land concerned of his or her intention to do so, take with him or her when he or she enters upon or proceeds over that land such persons, vehicles, goods and material as he or she may require for the performance of the relevant act: Provided that notice need not be given if the user of the land concerned does not reside on that land and cannot readily be traced; and 35
- (b) require the user of land concerned or his or her manager, agent or employee on that land to render him or her such reasonable assistance as may be necessary in the circumstances to enable him or her to perform the act concerned. 40

(3) The executive officer may at any reasonable time, after having obtained a warrant—

- (a) proceed over any land to reach the area where he or she wants to exercise his or her powers or perform his or her duties; 45
- (b) enter and search any land, building or conveyance if he or she suspects on reasonable grounds that there may be a regulated article on or in it or with a person, and for that purpose he or she may inspect anything on or in that land, building or conveyance on or with that person and remove it or a sample of it for further investigation; 50
- (c) require access to a book, document or electronic equipment at or on that land, building or conveyance which he or she suspects on reasonable grounds may relate to a regulated article, and make copies of or extracts from that book, document or electronic information;

(8) Kwimeko apho igosa eliphezulu likhupha umyalelo okanye imvume efanelekileyo, linako nanini na, ngesicelo, ukuqingqa iindawo zokungena okanye ezokuphuma ngaphandle kwezi zidakaciweyo kulo Mthetho.

(9) Igosa eliphezulu okanye igosa eliye—

- (a) lanikwa lo msebenzi ngenjongo yalo Mthetho; okanye 5
- (b) elibhengezwe njengegosa loxolo ngaphantsi kwesolotyala 334(1)(a) loMthetho weeNkqubo zoLwaphulo mthetho, ka-1977 (uMthetho No. 55 ka-1977), linako ukukhupha umdliwo wokuvuma ityala ongadlulanga kuma-R2500, nanjengoko kudakaciwe, kuye nabani na othe wophula ezi zindululo zesolotyala 4 kunye no-7. 10

(10) Ngenxa yeli solotyala, “ukuvalela” kuthetha ukugcina igosa lomthwalo eluvalelweni okanye bucala njengomgqaliselo wempilo yezityalo.

Imiyalelo ngokumayelana nomhlaba

7. (1) Igosa eliphezulu linako, ngomyalelo obhalwe phantsi, nekumele udluliselwe ngendlela edakaciweyo, ukuyalela umsebenzisi womhlaba ukuba agqale okanye alandele izindululo zemigqaliselo ethile yolawulo okanye ngemiqondiso yayo nayiphi na indawo yovalelo okanye indawo elawulwayo ekutyunjwe kuloo myalelo. 15

(2) Umyalelo onjalo unganika ukuba nantoni na efunwa ngokwemimiselo yomyalelo, kumele yenziwe okanye isuswe ngendlela okanye ngexesha elikhankanywe kuwo.

(3) Igosa eliphezulu linako, ngexesha lesicelo somsebenzisi womhlaba ekubhekiswa kuye kwaye ngokuchasene nentlawulo yomdliwo odakaciweyo, ukuba ikhona, ukurhoxisa okanye ukuhlomela umyalelo, kwaye ngenxa yezo zizathu liqhubeke nokwenza ugqogqo olunyanzelekileyo lendawo yokuzikhwebula okanye lendawo elawulwayo. 20

(4)(a) Ngaphandle kwesithintelo esikumyalelo ekubhekiswa kuso kwisolotyana (1), igosa eliphezulu linako, ngokubhala phantsi, ukugunyazisa umsebenzi womhlaba ukuba asuse imveliso yezityalo kwindawo yokuzikhwebula okanye kwindawo elawulwayo ekubhekiswa kuyo kumyalelo ukuze inyangwe, isiphulwe okanye itshatyalaliswe. 25

(b) Isicelo sogunyaziso esidakacwe kumhlathi (a) kumele sifakwe ngendlela edakaciweyo kwigosa eliphezulu. 30

Amandla okungena, okuphanda, ukuhlola nawokuhlwitha ngokumayelana nomhlaba

8. (1) Umntu ogunyaziswe nguMphathiswa ukwenza esi senzo esingaphantsi kwesolotyala 3(2) unako ngesigunyaziso nangalo naliphi na ixesha okungena aze aqhubeke kuloo mhlaba ukwenza eso senzo okanye ngokumayelana naloo mhlaba okanye eminye imihlaba. 35

(2) Lo mntu udakacwe kwisolotyana (1) unako—

- (a) emva kokuba emazisile umsebenzisi womhlaba ngeenjongo zakhe zokwenza oko, ukuthatha xa esele engenile kuloo mhlaba abantu, iinqwelo, iimveliso kunye nezixhobo zokusebenza okanye kungafuneka enze isenzo esimila kunjalo: Oko kuxhomekeka ekubeni ingabikho imfuneko yokukhutshwa kwesaziso kumsebenzisi womhlaba xa engahlali kuwo kwaye engenakulandeleka lula; kwaye 40
- (b) kufuneka umsebenzisi waloo mhlaba okanye umphathi, i-arhente okanye umsebenzi kuloo mhlaba anikeze uncendo oluyimfuneko nanjengoko kuzonyanzeleka kule meko ukuze akwazi ukwenza umsebenzi olindelekileyo. 45

(3) Igosa eliphezulu linako nangalo naliphi na ixesha elifanelekileyo, emva kokufumana isigunyaziso sogqogqo—

- (a) ukungena nakowuphi na umhlaba apho afuna ukusebenzisa amagunya akhe kuwo okanye enze umsebenzi wakhe kuwo; 50
- (b) ukungena aze agqogqe nawuphi na umhlaba, isakhiwo okanye inqwelo ukuba unomrhano oluvakalayo lokuba kungakhona iimveliso zezityalo ezilawulwayo okanye zisemntwini, kwaye ngezo zizathu angagqogqa nantoni na kuloo mhlaba, kuloo ndlu, kuloo nqwelo okanye kuloo mntu aze asuse okanye athathe isampuli ukuze iyophandisiswa; 55
- (c) ukufuna imvume yencwadi, yoxwebhu okanye izixhobo zombane ezikuloo mhlaba, kweso sakhiwo okanye kuloo nqwelo nangarhona ukuba inxulumene neemveliso ezilawulwayo, aze enze iikopi okanye amacwecwe aloo ncwadi, elo xwebhu okanye olo lwazi lobuchwepheshe;

- (d) demand an explanation in connection with a relevant entry in such a book, document or electronic information or anything observed by him or her during his or her inspection, from a person who may have knowledge of the entry concerned or of something observed by him or her;
 - (e) seize an article which may serve as evidence of the commission of an offence in terms of this Act, and for that purpose remove it or a sample of it or any other article from the land, building or conveyance in question, and affix an identification mark or seal to it; 5
 - (f) enter and inspect any land to demarcate a quarantine area or regulated area and for that purpose effect or erect a marker, peg, label or other mark on or in connection with the land; 10
 - (g) enter and search any land to determine if the user of the land concerned is complying with or carrying out, or has complied with or carried out, the provisions of a control measure or order;
 - (h) enter any land, building, conveyance or premises to carry out any surveillance of pests; and 15
 - (i) enter any land, building, conveyance or premises to carry out any other investigation in connection with any matter mentioned in this Act.
- (4) A warrant referred to in subsection (3) must be issued by a magistrate who has jurisdiction in the area where the land, building, conveyance or premises in question are situated, and must be issued only if it appears to the magistrate from the information on oath or affirmation that there are reasonable grounds for believing that an article mentioned in subsection (3)(b) and (e) is upon or in such land or premises and must specify which of the acts mentioned in subsection (3) may be performed by the person to whom it is issued. 20
- (5) A warrant issued in terms of this section must be executed by day unless the person who issues the warrant authorises the execution thereof by night at times which must be reasonable, and entry upon and search of any land, building, conveyance, premises, or specified area in such warrant, must be conducted with strict regard to decency and order, including— 25
- (a) the right of a person to respect and the protection of his or her dignity;
 - (b) the right of a person to freedom and security; and
 - (c) the right of a person to his or her personal privacy. 30
- (6) The executive officer, employee or juristic person executing a warrant in terms of this section must immediately before commencing with the execution— 35
- (a) identify himself or herself to the person in control of the land or premises if such a person is present, and hand to such a person a copy of the warrant, or if such a person is not present, affix such copy to a prominent place on the land, premises or conveyance; and
 - (b) supply such person at his or her request with particulars regarding his or her authority to execute such a warrant. 40
- (7) If, during the execution of a warrant or the conducting of a search in terms of this section, a person claims that an article found on or in the land, premises or conveyance in question contains confidential information and refuses the inspection, seizure or removal of such article, the person executing the warrant or conducting the search must, if he or she is of the opinion that the article contains information which is relevant to the investigation and that such information is necessary for the investigation or hearing, request a magistrate who has jurisdiction to seize or remove that article for safe custody until a court of law has made a ruling on the question whether or not the information in question is confidential. 45
- (8) A warrant issued in terms of this section may be issued on any day and remains in force until— 50
- (a) it is executed;
 - (b) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; 55
 - (c) the expiry of one month from the day of its issue; or
 - (d) the purpose for which the warrant was issued no longer exists, whichever occurs first.

- (d) ukufuna inkcazelo ngokumayelana ngokungena kwencwadi, koxwebhu okanye ulwazi lobuchwepheshe olunjalo okanye nantoni na ayiqaphelayo ngexesha esenza ugqogqo, kumntu onokuba nolwazi lokungena kwezinto ekubhekiswa kuzo aziqapheleyo;
- (e) ukuthimba imveliso nengasebenza njengobungqina kwikomishoni yolwaphulo-mthetho ngokwemimiselo yalo Mthetho, kwaye ngenxa yeso sizathu ayisuse okanye isempuli yayo okanye nayiphi na imveliso kuloo mhlaba, kweso sakhiwo okanye kuloo nqwelo ekubhekiswa kuzo, aze agximfize uphawu okanye ayitywine; 5
- (f) ukungena aze agqogqe umhlaba osikelwe ukuba ube yindawo yovalelo okanye indawo elawulwayo kwaye ngenxa yeso sizathu enze okanye amise uphawu, intsika, ibhakana okanye olunye uphawu olunxibelelene nomhlaba; 10
- (g) ukungena aze agqogqe umhlaba ukuze akwazi ukuqonda ukuba umsebenzisi waloo mhlaba uyayithobela okanye uziphathe ngendlela izindululo zemigqaliselo yolawulo; 15
- (h) ukungena nakowuphi na umhlaba, isakhiwo, inqwelo okanye amasango ukuze kujongisiswe izinambuzane; kwaye
- (i) unako ukungena kuwo nawuphi na umhlaba, isakhiwo, inqwelo okanye amasango ukuze aphande imiba enxulumene nalo mba ukulo Mthetho.
- (4) Igunya logqogqo ekubhekiswa kulo kwisolotyana (3) kumele likhutshwe ngumantyi onogonyamelo kuloo ndawo apho loo mhlaba, eso sakhiwo, loo nqwelo okanye loo masango azinze khona, kwaye kumele sikhutshwe kuphela xa sithe savela kumantyi lisuka kulwazi olufungelweyo okanye kwisiqinisekiso sokuba zikhona izizathu ezivakalayo zokuba imveliso edakacwa kwisolotyana (3)(b) kunye (e) kumhlaba othile okanye phakathi kwamasango athile kwaye kumele icacise ukuba zeziphi izenzo ezikhankanywe kwisolotyana (3) eziza kwenziwa ngulo mntu lowo likhutshelwe yena. 20
- (5) Isigunyaziso sogqogqo esikhutshwe ngokwemimiselo yeli solotya kumele lwenziwe emini ngaphandle kokuba umntu okhupha isigunyaziso sogqogqo uyavuma ukuba kungagqogqwa nasebusuku nekumele kube nezizathu ezivakalayo, kwaye ukungena nokugqogqa nakowuphi na umhlaba, isakhiwo, inqwelo okanye phakathi kwamasango, okanye indawo edakaciweyo kumele kwenziwe ngembeko nangocwangco, oko kuquka— 30
- (a) ilungelo lokuhlonitshwa nokukhuselwa kwesidima somntu;
- (b) ilungelo lenkululeko nokhuseleko lomntu; kwakunye 35
- (c) nelungelo lokuhlonitshwa kwezinto zakhe zangasese.
- (6) Igosa eliphezulu, umsebenzi okanye umbutho owenza umsebenzi wesigunyaziso sogqogqo ngokwemimiselo yeli solotya kumele ngokukhawuleza ngaphambili kokuqalisa lo msebenzi—
- (a) azazise kumntu onolawulo lomhlaba okanye wendawo xa ekhona umntu, aze anike loo mntu ikopi yesigunyaziso, okanye ukuba akekho umntu, ancamathisele loo kopi kudonga olucacileyo kuloo mhlaba, kuloo ndawo okanye kuloo nqwelo; aze 40
- (b) anike loo mntu xa ezicela iinkcukacha ezimayelana nokukhutshwa kwesigunyaziso sogqogqo. 45
- (7) Ukuba, ngexesha kuziswa isigunyaziso okanye ngexesha kusenziwa ugqogqo ngokwemimiselo yeli solotya, umntu othi imveliso efumaneke emhlabeni, endaweni okanye kuloo nqwelo iqulathe iinkcukacha zakwamkhozi aze ale ukuba kwenziwe ugqogqo, kuthinjwe okanye kususwe loo mveliso, umntu owenza ugqogqo kumele, ukuba ubona ukuba iimveliso ziqulathe ulwazi olunenkukacha eziphathelelene nophando kwaye ulwazi olunjalo lubalulekile kuphando okanye kuwiwo lwetyala, makacele umantyi onegunya kuloo ngingqi ukuba athimbe okanye asuse loo mveliso ukuze ibe kwindawo ekhuselekileyo ide inkundla yomthetho yenze isigwebo ngokuba olu lwazi lolwakwamkhozi okanye hayi. 50
- (8) Isigunyaziso esikhutshwe ngokwemimiselo yeli solotya singakhutshwa nangayephi na imini kwaye sihlale sisebenza— 55
- (a) kude kwenziwe ugqogqo;
- (b) side siphelise ngumntu obesikhuphile okanye, ukuba loo mntu akekho, nasiphi na isiphamandla esikhoyo;
- (c) kude kufike umhla wokuphelelwa kwaso oyinyanga ukususela ukukhutshwa kwaso; okanye 60
- (d) kude iinjongo zokukhutshwa kwaso zibe azisekho, nokuba kufike eyiphi ke kuqala.

(9) When the executive officer exercises a power referred to in subsection (3) on or in connection with any land, premises or conveyance, he or she may require the user of land, owner or person in charge, or his or her manager, agent or employee, to render him or her such reasonable assistance as may be necessary.

(10) When the executive officer exercises a power referred to in subsection (3) on or in connection with any land, premises, building or conveyance, he or she may make use of any person or equipment to assist him or her in the exercise of his or her power. 5

(11) A person authorised under this section to enter upon, search or proceed over any land, building or conveyance must show to the user of the land, owner or person in charge, or his or her manager, agent or employee, proof of his or her identity. 10

Establishment of National Plant Protection Organisation of South Africa

9. (1) The National Plant Protection Organisation of South Africa is hereby established in accordance with the provisions of Article IV of the Convention.

(2) The National Plant Protection Organisation of South Africa must perform the functions provided for in this Act. 15

Composition of National Plant Protection Organisation of South Africa

10. The National Plant Protection Organisation of South Africa consists of directorates responsible for phytosanitary policy and operation matters in the Department.

Functions of National Plant Protection Organisation of South Africa 20

11. The National Plant Protection Organisation of South Africa shall perform the following functions:

- (a) Provide a national plant protection contact point in terms of the Convention in the Republic;
- (b) issue phytosanitary certificates; 25
- (c) conduct pest risk analyses;
- (d) develop and publish phytosanitary measures;
- (e) propose, review and enforce phytosanitary measures;
- (f) inspect consignments of plants, plant products and other regulated articles;
- (g) notify trading partners regarding non-compliance with phytosanitary import requirements; 30
- (h) notify other countries about the Republic's phytosanitary measures, regulations, requirements and legislation;
- (i) conduct surveillance for regulated pests in the Republic;
- (j) conduct phytosanitary audits to ensure that pest management is in compliance with official phytosanitary measures and standards; 35
- (k) render plant health services that include phytosanitary diagnostic services and quarantine services;
- (l) distribute plant health information regarding regulated pests and any other phytosanitary matters that are of public interest; 40
- (m) conduct training and development of staff;
- (n) represent the Republic in bilateral, regional and other international phytosanitary forums;
- (o) negotiate and maintain export work programmes, bilateral protocols for importing and exporting plants and plant products and other regulated articles; as well as any other related phytosanitary measures; and 45
- (p) perform such other functions as may be required by the provisions of this Act and relevant international agreements.

(9) Xa igosa eliphezulu lisebenzisa amagunya alo ekubhekiswa kuwo kwisolotyana (3) ngokumayelana nawo nawuphi na umhlaba, indawo okanye inqwelo, angacela umsebenzisi womhlaba, umnini womhlaba okanye umntu ophetheyo, okanye umphathi wakhe, i-arhente okanye umsebenzi, ukuba amnike uncedo oluyimfuneko nanjengoko kungayimfuneko oko. 5

(10) Xa igosa eliphezulu lisebenzisa amagunya alo ekubhekiswa kuwo kwisolotyana (3) ngokumayelana nawo nawuphi na umhlaba, indawo okanye inqwelo, lingasebenzisa nawuphi na umntu okanye izixhobo zokusebenza ukumncedisa ekusebenziseni amandla akhe.

(11) Umntu ogunyazisiweyo ngaphantsi kweli solotyana ukungena, agqogqe okanye ajonge umhlaba, isakhiwo okanye inqwelo kumele abonise umsebenzisi womhlaba, umnini wawo okanye umntu ophetheyo, okanye umphathi wakhe, i-arhente okanye umsebenzi, ubungqina besazisi sakhe. 10

Ukumiliselwa koMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe

9. (1) UMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe uye wamiliselwa ngokuhambelana nezindululo zeNgqungquthela ye-IV yeMveliso yeZityalo. 15

(2) UMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe kumele wenze imisebenzi edakacwe kulo Mthetho.

Ukuyilwa koMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe

10. UMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe unamasetyana ajongene nepolisi nemiba yokusebenza kwempilo yezityalo eSebeni. 20

Imisebenzi yoMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe

11. UMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe uza kwenza le misebenzi ilandelayo:

- (a) Uza kuza nonxibelelwano lwesizwe lokhuselo lwezityalo ngokwemimiselo yeNgqungquthela kwiRiphabliki; 25
- (b) ukhuphe izatifiketi zemilo yezityalo;
- (c) ubhexeshe uphicotho lobungozi lwezineambuzane;
- (d) uqulunqe uze upapashe imigqaliselo yempilo yezityalo;
- (e) ucebise, ujonge uze unyanzelise imigqaliselo yempilo yezityalo; 30
- (f) ugqogqe imithwalo yezityalo, eyemveliso zezityalo kwakunye nezinye iimveliso zezityalo ezilawulwayo;
- (g) wazise oogxa borhwebelwano ngokumayelana nokungathotyelwa kwezinto ezifunwayo xa kungeniswa izinto zempilo yezityalo elizweni;
- (h) wazise amanye amazwe ngemigqaliselo yempilo yezityalo yeRiphabliki, imiqathango, okufunekayo nemithetho; 35
- (i) ubhexeshe ujongo lwezineambuzane ezilawulwayo kwiRiphabliki;
- (j) ubhexeshe uphicotho lwempilo yezityalo ukuqinisekisa ukuba ulawulo lwezineambuzane luthobela imigqaliselo nemithetho esesikweni yempilo yezityalo; 40
- (k) unike iinkonzo zempilo yezityalo eziquka iinkonzo zophononongo lwempilo yezilwanya kwakunye neenkonzozo zokuzikhwebula;
- (l) usasaze ulwazi ngempilo yezityalo ngokumayelana nezineambuzane ezilawulwayo kwakunye neminye imiba yempilo yezityalo ezikumdlawoluntu; 45
- (m) usindleke uqeqesho nophuhliso lwabasebenzi;
- (n) umele iRiphabliki kwiiforum zempilo yezityalo nelinye ilizwe, kummandla wamazwe kwakunye nakumanye amazwe ehlabathi;
- (o) ubonisane uze ugqine iinkqubo zothumelo, imigomo yorhwebelwano ngezityalo neemveliso zezityalo phakathi kwamazwe kwakunye nezinye iimveliso ezilawulwayo; kwakunye nazo zonke ezinye izinto ezinxulumene nempilo yezityalo; uze 50
- (p) wenze neminye imisebenzi engafunwa zizindululo zalo Mthetho kwakunye nezivumelwano zamanye amazwe ezinxulumeneyo.

CHAPTER 3

IMPORTS

Regulation of imports

12. (1) In order to prevent the introduction, establishment and spread of regulated pests, the executive officer may— 5
- (a) conduct pest-risk analyses and prescribe specific phytosanitary measures as conditions for the import of plants, plant products and other regulated articles;
 - (b) exempt or prohibit the import of specified plants, plant products and other regulated articles;
 - (c) implement emergency and provisional measures in relation to imports; and 10
 - (d) take phytosanitary action in relation to imports.
- (2) Phytosanitary measures under subsection (1)(a) and the exemptions or prohibitions under subsection (1)(b) shall be based on existing international standards or be technically justified based on pest-risk analyses.
- (3) The executive officer may engage in preparatory negotiations with counterparts 15 for phytosanitary bilateral and multilateral agreements.

Import of regulated articles

13. (1) Subject to subsections (2), (5) and (6), a person may not, except on authority of an import permit that may on application be issued by the executive officer on such conditions as he or she may determine, import into the Republic regulated articles. 20
- (2) The Minister may, by notice in the *Gazette*, determine that specific regulated articles may be imported into the Republic without an import permit, subject to conditions set out in that notice.
- (3) A person importing regulated articles into the Republic on the authority of a permit or a notice in the *Gazette* as contemplated in subsection (2)— 25
- (a) must do so through a prescribed point of entry, except where an executive officer has determined an alternative point of entry;
 - (b) must present the regulated articles and prescribed documents at the point of entry or any other place determined by the executive officer for inspection, tests or other activities; 30
 - (c) must not remove the regulated articles from the point of entry or any other place before the executive officer has authorised such removal in writing;
 - (d) must apply for inspection on a form obtainable from the executive officer; and
 - (e) is liable for the payment of the prescribed fees.
- (4)(a) The executive officer may review, modify or revoke an import permit in the case where import conditions have been amended or modified or where the permit holder has contravened the conditions of the import permit; 35
- (b) If the executive officer reviews, modifies or revokes an import permit in terms of subsection (4)(a) he or she must advise the permit holder in writing of the review, modification or revocation and the reasons for the review, modification or revocation 40 within 10 days of his or her decision.
- (5) The Minister may allow the importation of any organism of a kind not indigenous to the Republic, if the presence of it in the Republic is desirable to—
- (a) control the occurrence of pests in the Republic; or
 - (b) further the objectives of this Act; 45
- (6) The Minister may consult widely with, and take into account the advice of members of the agricultural and scientific communities before taking action under subsection (5).

ISIAHLUKO 3

IIMVELISO ZAMANYE AMAZWE

Ulawulo lweemveliso zamanye amazwe

12. (1) Ukuze kuthintelwe ukwaziswa, ukumiliselwa nokusasazeka kwezimbuzane ezilawulwayo, igosa eliphezulu linako— 5
- (a) ukubhexesha uphicotho lobungozi bezimbuzane lize lidakace imigqaliselo engqalileyo itsho ibe yimimiselo yokungeniswa kweemveliso ezisuka kwamanye amazwe yezityalo, yeemveliso zezityalo kwakunye nezinye iimveliso ezilawulwayo;
 - (b) ukususa okanye ukwalela ukungeniswa kwezityalo ezithile, iimveliso zezityalo ezithile kwakunye nezinye iimveliso ezilawulwayo; 10
 - (c) ukumiliselwa imigqaliselo yongxamiseko ngokumayelana neemveliso ezisuka kwamanye amazwe; lize
 - (d) lithathe amanyathelo empilo yezityalo ngokumayelana neemveliso zamanye amazwe. 15
- (2) Imigqaliselo yempilo yezityalo engaphantsi kwesolotyana (1)(a) kwakunye nokususa nokwalelwa okungaphantsi kwesolotyana (1)(b) kuza kusekelezelwa kwimigomo esele ikhona okanye ithetheleleke ngokusekelezelwe kuphicotho lophando lobungozi bezimbuzane.
- (3) Igosa eliphezulu lingabonisa ngelilungiselela iingxoxo noogxa balo ngezivumelwano zentsebenziswano ngempilo yezityalo. 20

Ukungeniswa kweemveliso ezilawulwayo

13. (1) Ngokuxhomekeka kumasolotyana (2), (5) kunye (6), umntu akanako, ngaphandle kwesigunyaziso semvume yokungenisa izinto kweli nengafumaneka ngokufaka isicelo ukuba ikhutshwe ligosa eliphezulu ngemiqathango aza kuthi ayidakace, ukungenisa iimveliso zezityalo kwiRiphabliki. 25
- (2) UMphathiswa unako, ngokwenza isaziso kwiGazethi, ukutsho ukuba iimveliso ezithile ezilawulwayo zingangeniswa kwiRiphabliki ngaphandle kwemvume yokungenisa, ngokuxhomekeka kwiqathango edakace kweso saziyo.
- (3) Umntu othumela iimveliso ezilawulwayo kwiRiphabliki ngesigunyaziso semvume okanye ngesaziso kwiGazethi nanjengoko kudakaciwe kwisolotyana (2)— 30
- (a) kumele akwenze oku ngeendawo zokungena kweli ezicacisiweyo, ngaphandle kokuba igosa eliphezulu liye lanikeza enye indawo yokungena;
 - (b) kumele aveze amaxwebhu afanelekileyo eemveliso ezilawulwayo kuloo ndawo yokungena okanye nakweyiphi na indawo eya kuthi itshiwo ligosa eliphezulu ngogqogqo, ngovavanyo okanye ngezinye izinto; 35
 - (c) kumele angazisusi iimveliso ezilawulwayo kwindawo yokungena okanye kuyo nayiphi na enye indawo de igosa eliphezulu linike isigunyaziso sokususwa ngembalelwano;
 - (d) kumele afake isicelo sogqogqo kwifom efumaneka kwigosa eliphezulu; kwaye 40
 - (e) kumele ahlawule iindleko eziza kube zidakaciwe.
- (4)(a) Igosa eliphezulu lingajonga, lilungise okanye lisuse imvume yokungenisa kwimeko apho imiqathango yokungeniswa kweemveliso ithe yahlonyelwa okanye yalungiswa okanye apho umntu ophethe imvume wophula imiqathango yemvume yokungenisa iimveliso kweli; 45
- (b) Ukuba igosa eliphezulu lijongile, laze lalungisa okanye lasusa imvume yokungenisa ngokwemimiselo yesolotyana (4)(a) kumele acebise ngembalelwano ngakubonileyo, ngezilungiso okanye ukuswa kwakunye nezizathu zakubonileyo, zokulungisa okanye zokususa zingaphelanga iintsuku ezili-10 esenzile esi sigqibo. 50
- (5) UMphathiswa unako ukuvumela ukungeniswa kwazo naziphi na izinto eziphilayo zendalo zohlobo oluqhelekileyo kwiRiphabliki, ukuba ubukho bayo kwiRiphabliki kuyanqweneleka—
- (a) ukuze bulawule ukuqhambuka kwezimbuzane kwiRiphabliki; okanye
 - (b) ukongeza kwiimfuno zalo Mthetho; 55
- (6) UMphathiswa angabuzisa kangangoko, aze athathele ingqalelo iingcebiso zamalungu ezolimo nenzululwazi ngaphambili kokuba athathe inyathelo ngaphantsi kwesolotyana (5).

(7) The Minister may, by notice in the *Gazette*, determine regulated articles in respect of which a permit for importation into the Republic may not be issued.

CHAPTER 4

EXPORT, RE-EXPORT AND TRANSIT

Export of regulated articles

5

14. (1) A person intending to export plants, plant products or other regulated articles from the Republic—

- (a) must comply with the phytosanitary import requirements of the importing country;
- (b) must apply to the executive officer for the prescribed phytosanitary certificate, 10 where applicable, in the prescribed manner;
- (c) must do so through a prescribed point of exit, except where the executive officer has determined an alternative point of exit;
- (d) is liable for the prescribed fees;
- (e) must present the consignment for inspection; and 15
- (f) must comply with the prescribed export phytosanitary protocols and related requirements.

(2) The executive officer shall, upon application by an exporter under subsection (1)(b), inspect the consignment without undue delay.

(3) Upon inspection under subsection (2) the executive officer shall— 20

- (a) where the consignment meets the importing country's phytosanitary measures, issue a phytosanitary certificate and any other required declaration; or
- (b) deny certification where requirements under subsection (1) have not been met.

(4) After the issuance of a phytosanitary certificate, the exporter shall export the consignment in compliance with the conditions of the National Plant Protection 25 Organisation of South Africa concerning maintenance of the phytosanitary security of a consignment after certification.

Re-export

15. (1) When a consignment is imported into the Republic for further export to another country, the exporter— 30

- (a) must apply to the executive officer for a prescribed phytosanitary certificate for re-export;
- (b) must provide all required documentation to the relevant executive officer;
- (c) must avail the consignment for inspection; and
- (d) is liable for the prescribed fees. 35

(2) The executive officer shall, upon application by an exporter under subsection (1)(a), inspect the consignment without undue delay.

(3) Upon inspection under subsection (2), the executive officer shall issue a re-export phytosanitary certificate where he or she has reasonable grounds to believe that the consignment— 40

- (a) complies with the phytosanitary measures of the importing country; and
- (b) the accompanying documents comply with the phytosanitary import requirements of the importing country.

(4) Upon issuance of a re-export phytosanitary certificate, the exporter shall re-export the consignment in compliance with the conditions of the National Plant Protection 45 Organisation of South Africa concerning consignment integrity and phytosanitary security.

(5) In cases where any of the requirements of subsection (3) are not met, the executive officer shall not issue a phytosanitary certificate in accordance with section 14(3).

(6) Any phytosanitary certificate issued under subsection (3) shall indicate the country 50 of origin of the consignment.

(7) UMphathiswa unako, ngokwenza isaziso kwiGazethi, ukutsho ukuba zeziphi iimveliso zezityalo ezilawulwayo ekungamelanga ziyinikwe imvume yokungeniswa kwiRiphabliki.

ISAPHLUKO 4

IIMVELISO EZITHUNYELWA KWAMANYE AMAZWE, EZINGENISWAYO 5 ZIZE ZIPHINDE ZITHUNYELWE NOKUHANJISWA KWAZO

Ukuthunyelwa kweemveliso ezilawulwayo

14. (1) Umntu oneenjongo zokuthumela kwamanye amazwe izityalo, iimveliso zezityalo okanye ezinye iimveliso ezilawulwayo zisuka kwiRiphabliki—
- (a) kumele athobele iimfuno zempilo yezityalo zelo lizwe lamkelayo; 10
 - (b) kumele afake isicelo kwigosa eliphezulu ukuze afumane isatifiketi esiyimfuneko sempilo yezityalo, xa kunemfuneko, nangendlela edakaciweyo;
 - (c) kumele akwenze oko ngeendawo zokuphuma ezidakaciweyo, ngaphandle kokuba igosa eliphezulu liye lathi makusetyenziswe enye indawo yokuzikhupha; 15
 - (d) nguye oza kubhatala iindleko ezidakaciweyo;
 - (e) kumele azise loo mithwalo ukuze ihlolwe; kwaye
 - (f) kumele athobele imigomo emayelana neemfuno ezibekiweyo zempilo yezityalo zokuthumela kwamanye amazwe.
- (2) Igosa eliphezulu kumele, xa kufakwe isicelo ngumthumeli ngaphantsi 20 kwesolotyana (1)(b), ahlole imithwalo ngaphandle kokulibazisa.
- (3) Ekuhloleni ngaphantsi kwesolotyana (2) igosa eliphezulu kumele—
- (a) apho imithwalo ihambelana nemiqathango yempilo yezityalo ebikiweyo yokungeniswa elizweni, likhuphe isatifiketi sempilo yezityalo kwakunye nazo naziphi na izinto ezibhengeziweyo ezifunekayo; okanye 25
 - (b) angavumi ukukhupha isatifiketi ngaphantsi kwesolotyana (1) xa ingahambelani nemiqathango.
- (4) Emva kokukhutshwa kwesatifiketi sempilo yezityalo, umthumeli kumele athumele imithwalo ngokuthobela imibandela yoMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe ngokumayelana nokugcina ukhuseleko lwempilo yezityalo 30 lwemithwalo emva kokukhutshwa kwesatifiketi.

Ukungeniswa kuze kuphinde kuthunyelwe

15. (1) Xa imithwalo ingeniswa kwiRiphabliki ukuze iphinde ithunyelwe kwelinye ilizwe, umthumeli—
- (a) kumele afake isicelo kwigosa eliphezulu ukuze limnike isatifiketi sempilo 35 yezityalo ukuze akwazi ukuphinde athumele;
 - (b) kumele akhuphe onke amaxwebhu afanelekileyo kwelo gosa eliphezulu;
 - (c) kumele azise imithwalo ukuze izohlolwa; kwaye
 - (d) unoxanduva lokuhlawula zonke iindleko ezibekiweyo.
- (2) Igosa eliphezulu kumele, xa kufakwe isicelo ngumthumeli ngaphantsi 40 kwesolotyana (1)(a), ahlole imithwalo ngaphandle kokulibazisa.
- (3) Ekuhloleni ngaphantsi kwesolotyana (2) igosa eliphezulu liza kukhupha isatifiketi sempilo yezityalo xa linezizathu ezivakalayo zokuba imithwalo—
- (a) iyahambelana nemigqaliselo yempilo yezityalo yokungeniswa kweli; kwaye
 - (b) amaxwebhu akhaphayo ayahambelana neemfuno zempilo yezityalo yeli 45 yokungeniswa kwemithwalo.
- (4) Ekukhutshweni kwesatifiketi sempilo yezityalo, umthumele kumele athumele imithwalo ngokuthobela imibandela yoMbutho woMzantsi Afrika woKhuselo lweZityalo zeSizwe ngokumayelana nesidima semithwalo kwakunye nokhuseleko lwempilo yezityalo. 50
- (5) Kwiimeko apho naziphi na iimfuno zesolotyana (3) zingahambelani, igosa eliphezulu alizukusikhupha isatifiketi sempilo yezityalo ngokuhambelana nesolotyana 14(3).
- (6) Nasiphi na isatifiketi sempilo yezityalo esikhutshwe ngaphantsi kwesolotyana (3) siza kubonisa ilizwe esuka kulo imithwalo. 55

In-transit

16. (1) Transit of consignments carrying certain regulated articles through the Republic shall be permitted only upon written permission by the executive officer, which shall be granted after application by a person in control of transition process or transiting the consignment in the prescribed form and the payment of any prescribed fee. 5

(2) Phytosanitary measures shall not apply to a consignment in transit through the Republic, provided that the consignment—

- (a) has been packed in such a manner as not to permit any risk of the introduction and spread of regulated pests that might be present in the consignment;
- (b) where applicable, is accompanied by the phytosanitary certificate and accompanying documents of the country of origin. 10

CHAPTER 5**PEST STATUS AND PHYTOSANITARY PROCEDURES****Declaration of regulated pests**

17. (1) The executive officer must declare a pest as a quarantine pest or regulated non-quarantine pest, based on a pest-risk analysis. 15

(2) The executive officer must publish the lists of regulated pests in a government notice.

Compulsory notification of presence of pests

18. (1) A user of land who knows or suspects the presence of regulated pests on the land concerned must— 20

- (a) immediately notify the executive officer or authority by the quickest practicable means;
- (b) provide the executive officer with such further information as the executive officer may reasonably require; and 25
- (c) take all reasonable measures to prevent the spread of the regulated pests.

(2) Any person who has for the first time identified or recorded the occurrence of a regulated pest to be present in the Republic must immediately report it to the executive officer or authority.

Declaration of quarantine areas 30

19. (1) Where the executive officer determines or suspects that an area or premises is infested with any quarantine pest, he or she may declare in the prescribed manner that area a quarantine area.

(2) The executive officer shall regularly review the situation in respect of any quarantine area and as soon as either— 35

- (a) the relevant quarantine pest is considered as no longer present; or
- (b) it is no longer viable for the quarantine to be maintained in respect of part or all of the area,

it shall revoke the quarantine status of such area.

(3) The executive officer may declare a place to be a quarantine facility in which regulated articles may, subject to this Act, be kept, examined, disinfested, treated, destroyed or otherwise disposed thereof. 40

Declaration of pest-free areas, places and sites of production

20. A pest-free area, place and site of production may be established and declared in the prescribed manner when the executive officer— 45

- (a) is satisfied through surveillance that a specific pest is not present in the area;
- (b) adopts phytosanitary measures to establish and maintain a pest-free area; and

Ukuhanjiswa

16. (1) Ukuhanjiswa kwemithwalo ephethe iimveliso zezityalo ezilawulwayo ezithile zidlula kwiRiphabliki kuza kuvunyelwa kuphela xa kukhona imvume ebhaliweyo esuka kwigosa eliphezulu, nekumele ikhutshwe emva kokufakwa kwesicelo ngumntu onolawulo lwenkqubo yokuhanjiswa okanye ohambisa imithwalo ngendlela edakaciweyo kwakunye nentlawulo yazo naziphi na iindleko ezibekiweyo. 5

(2) Imigqaliselo yempilo yezityalo ayingeni ndawo kwemithwalo edlulayo kwiRiphabliki, kodwa oko kuxhomekeka ekubeni imithwalo—

- (a) imithwalo ipakishwe ngendlela engazukubeka emngciphekweni ukwaziswa okanye ukusasazwa kwezinambuzane ezilawulwayo; 10
- (b) xa kukhona imfuneko, ikhatshwa sisatifiketi sempilo yezityalo kunye namaxwebhu elo lizwe isuka kulo.

ISIAHLUKO 5

IBAKALA LEZINAMBUZANE KWAKUNYE NEENKQUBO ZEMPILO YEZITYALO 15

Ukubhengezwa kwezinambuzane ezilawulwayo

17. (1) Igosa eliphezulu kumele libhengeze isinambuzane okanye isinambuzane esilawulwayo esingavelelwanga, ngokususelwa kuphicotho lobungozi besinambuzane.

(2) Igosa eliphezulu kumele lipapashe uluhlu lwezinambuzane ezilawulwayo kwisaziso sikarhulumente. 20

Ulwaziso olunyanzelekileyo lobukho bezinambuzane

18. (1) Umsebenzisi womhlaba obaziyo okanye obukrokrelayo ubukho bezinambuzane ezilawulwayo emhlabeni ekubhekiswa kuwo kumele—

- (a) ngokukhawuleza azise igosa eliphezulu okanye abasemagunyeni ngokungxamiseka; 25
- (b) anike igosa eliphezulu iinkcukacha ezithile ezinokufunwa ligosa eliphezulu; aze
- (c) enze iinzame ezivakalayo zokuthintela ukusasazeka kwezinambuzane ezilawulwayo.

(2) Nabani na othe wangowokuqala ukuqaphela okanye ukushicilela ubukho bezinambuzane ezilawulwayo kwiRiphabliki kumele ngokukhawuleza akuxele oko kwigosa eliphezulu okanye kwabasemagunyeni. 30

Ukubhengezwa kweendawo zovalelo

19. (1) Apho igosa eliphezulu liqaphela okanye likrokrela ukuba indawo ezele zizinambuzane ezivalelweyo iqhambukile, unako ukubhengeza oko ngendlela edakaciweyo ukuba loo ndawo yindawo yovalelo. 35

(2) Igosa eliphezulu liza kuthi gqolo ukujonga imeko ngokumayelana nendawo yovalelo kwaye xa kanye—

- (a) loo ndawo yovalelo lwezinambuzane ibonwa njengengasekhoyo; okanye
- (b) akusekho mfuneko yokuvallelwa kweendawo ezithile okanye yonke loo ndawo, 40

liza kusiphelisa isibhengezo sovalelo kuloo ndawo.

(3) Igosa eliphezulu lingabhengeza indawo yezixhobo zovalelo nalapho iimveliso ezilawulwayo, ngokuxhomekeka kulo Mthetho, zingagcinwa, zivavanywe, zitshatyalaliswe, zinyangwe, zibulawe okanye zipheliswe. 45

Ukubhengezwa kweendawo ezingenazo ezi zinambuzane, iindawo kwakunye namaziko emveliso

20. Indawo yemveliso enganazo izinambuzane ingamiliselwa ize ibhengezwe ngendlela edakaciweyo xa igosa eliphezulu—

- (a) lisaneliseka lujongo lwezinambuzane ezithile ukuba azisekho kuloo ndawo; 50
- (b) lisamkela imigqaliselo yempilo yezityalo ukumilisela nokugcina indawo enganazo izinambuzane;

- (c) institutes a surveillance programme to verify that the pest-free status is maintained.

Declaration of area of low pest prevalence

- 21.** An area of low pest prevalence may be declared in the prescribed manner when the executive officer— 5
- (a) is satisfied that a regulated pest occurs at low levels in an area;
 - (b) adopts phytosanitary measures to establish and maintain an area of low pest prevalence; and
 - (c) institutes a surveillance programme to verify that the pest levels remain low.

CHAPTER 6 10

GENERAL PROVISIONS

Assignment of powers

- 22.** (1) If the Minister deems it fit, he or she may assign, in writing, any power conferred or assign any duty imposed on the Minister by this Act to a juristic person or organs of state, except the power— 15
- (a) conferred upon him or her by section 13(1), (2), (5) and (6);
 - (b) to prescribe control measures under section 4;
 - (c) to decide an appeal under section 23;
 - (d) to make regulations under section 30; and
 - (e) to perform the functions of the executive officer under section 6. 20
- (2) When the Minister assigns a power or duty referred to in subsection (1), he or she may determine that the assignee concerned must exercise his or her powers and perform his or her duties subject to the instructions of the Minister.
- (3)(a) A juristic person established under any law and to whom a power or duty has been assigned under subsection (1) is, despite the absence of any express provision to that effect in the law under which it was established, deemed competent to exercise the power or perform the duty. 25
- (b) Subject to the approval of the Minister, such juristic person may in writing authorise a person in its employment to exercise the power or to perform the duty concerned: Provided that a decision or order of the authorised person may at any time be withdrawn or amended by the Minister. 30

Right to appeal

- 23.** A person who feels aggrieved by any decision or action by the executive officer in terms of this Act may appeal in the prescribed manner to the Minister against such decision or action. 35

Appeal Board, composition and membership

- 24.** (1) The Minister may constitute a board known as the Appeal Board to investigate and consider any appeal referred to in terms of section 23.
- (2) The Appeal Board must consist of not less than three members appointed by the Minister, of whom— 40
- (a) one person must be appointed on account of his or her knowledge in the relevant fields of the law; and
 - (b) two or more persons must have expert knowledge of the subject of the appeal.
- (3) The person referred to in subsection (2)(a) must be designated as the chairperson.
- (4) The remuneration of a member of the Appeal Board must be prescribed. 45
- (5) Any person appointed in terms of subsection (2) must recuse himself or herself as a member of the Appeal Board if he or she has any direct or indirect personal interest in the outcome of the appeal.

- (c) kwaye lingaseka inkqubo yojongo ukuze kuqinisekiswa ukuba loo ndawo ihlala ingenazo izindambuzane.

Ukubhengezwa kweendawo apho zimbalwa khona izinambuzane

21. Indawo apho lizezantsi ibakala lezinambuzane ingabhengezwa ngendlela edakaciweyo ukuba igosa eliphezulu— 5
- (a) liyaneliseka ukuba izinambuzane ezilawulwayo ziqhambuka kancinci kuloo ndawo;
- (b) lisamkela imigqaliselo yempilo yezityalo yokumilisela nokucina indawo inoqhambuko olusezantsi lwezindambuzane; kwaye
- (c) lingaseka inkqubo yojongo ukuze kuqinisekiswa ukuba amabakala ezindambuzane ahlala esezantsi. 10

ISAHLUKO 6

IZINDULULO EZITHE GABALALA

Umsebenzi wamandla

22. (1) Ukuba uMphathiswa ubona kufanelekile, angathumela, ngokubhala phantsi, nawaphi na amandla akuye okanye anike nawuphi na umsebenzi onikwe uMphathiswa ngulo Mthetho kumbutho okanyekwizigaba zikarhulumente, ngaphandle kwamandla— 15
- (a) abekwe kuye lisolotyana 13(1), (2), (5) kunye (6);
- (b) okudakaca imigqaliselo yolawulo ngaphantsi kwesolotyana 4;
- (c) okugqiba ngokucima ngaphantsi kwesolotyana 23; 20
- (d) okwenza imiqathango ngaphantsi kwesolotyana 30; kwakunye
- (e) okwenza imisebenzi yegosa eliphezulu ngaphantsi kwesolotyana 6.
- (2) Xa uMphathiswa egqithisela amandla okanye imisebenzi ekubhekiswa kuyo kwisolotyana (1), unako ukuxelela elo gosa alinike amandla okuba lisebenzise amandla alo lize lenze imisebenzi yalo ngokuxhomekeka kwimiyalelo yoMphathiswa. 25
- (3)(a) Umbutho omiliselwe ngaphantsi kwawo nawuphi na umthetho namandla awo okanye umsebenzi wawo uye wanikwa ngaphantsi kwesolotyana (1) nokuba azikho naziphi na izindululo zaloo mthetho eziye zamiliselwa ngawo, ubonwa njengokwaziyo ukusebenzisa amandla okanye ukwenza umsebenzi.
- (b) Ngokuxhomekeka kwimvume yoMphathiswa, umbutho onjalo unako ngokubhala phantsi ukugunyazisa umntu oqeshiweyo kuwo ukusebenzisa amandla okanye ukwenza umsebenzi ekubhekiswa kuwo: Kodwa isigqibo okanye umyalelo ogunyazisa loo mntu ungarhoxiswa okanye uhlonyelwe nanini na nguMphathiswa. 30

Ilungelo lokubhena

23. Umntu ongaphathwa kakuhle siso nasiphi na isigqibo okanye isenzo segosa eliphezulu ngokwemimiselo yalo Mthetho unako ukubhena ngendlela edakacwe nguMphathiswa ngakwisigqibo okanye ngakwisenzo esinjalo. 35

IBhunga leziBheno, uqulunqo kwakunye nobulungu

24. (1) UMphathiswa unako ukuseka ibhunga elibizwa ngokuba liBhunga leZibheno ukuze liphande lize liqwalasele nasiphi na isibheno ekubhekiswa kuso kwisolotyana 23. 40
- (2) IBhunga leZibheno kumele libe namalungu angangekho ngaphantsi kwesithathu atyunjwe ngumphathiswa, nalapho—
- (a) umntu omnye kumele atyunjwe ngolwazi lwakhe kwicandelo lomthetho; kwaye
- (b) abantu ababini nangaphezulu kumele babe zingcali kwimiba yezibheno. 45
- (3) Umntu ekubhekiswa kuye kwisolotyana (2)(a) kumele abekwe njengosihlalo.
- (4) Umrholo welungu leBhunga leZibheno kumele udakacwe.
- (5) Nabani na otyunjwe ngokwemimiselo yesolotyana (2) kumele arhoxe njengelungu leBhunga leZibheno ukuba unawo umdla ongqalileyo okanye ongangqalanga ngqo kwiziphumo zesibheno. 50

Investigation and consideration by Appeal Board

25. (1) The Minister may refer an appeal to the Appeal Board.
- (2) An appeal must be heard on the date, time and place determined by the chairperson.
- (3) The chairperson must inform the appellant and any other party that has an interest 5
in the appeal in writing of the date, time and place of the hearing.
- (4) The chairperson may, for the purposes of the hearing of an appeal—
- (a) summon any person who may have material information concerning the 10
subject of the hearing or who has in his or her possession or custody or under
his or her control any document which has any bearing upon the subject of the
hearing, to appear before the Appeal Board at a date, time and place specified
in the summons, to be questioned or to produce that document, and the
chairperson may retain for examination any document so produced; and
- (b) administer an oath to or accept an affirmation from any person called as a 15
witness at the hearing.
- (5) A person who appeals in terms of section 23 and the executive officer may be
represented.
- (6) If a member of the Appeal Board—
- (a) dies during the investigation of the appeal or so soon before the commence- 20
ment of the investigation that the vacancy cannot be filled in time;
- (b) is unable to act and another person cannot be appointed in time; or
- (c) is, after the investigation has commenced, unable to continue therewith,
the parties may agree that the investigation be continued by the remaining members of
the Appeal Board.
- (7) Where the member of the Appeal Board who has died or has become incapacitated 25
as envisaged in subsection (6) was or is the chairperson of the Appeal Board, the
Minister must designate one of the remaining members of the Appeal Board to act as
chairperson.

Consideration of appeal by Minister

26. (1) Where the Minister has referred an appeal to the Appeal Board in terms of 30
section 24(1), he or she may—
- (a) confirm or set aside the recommendations of the Appeal Board; and
- (b) order the executive officer to execute the decision in connection therewith.
- (2) Where the Minister considers an appeal, he or she may—
- (a) confirm, set aside or vary the decision of the executive officer; and 35
- (b) order the executive officer to execute the decision in connection therewith.
- (3) The decision of the Minister must be in writing and a copy thereof must be
furnished to the executive officer, appellant and any other party that has an interest in the
appeal.
- (4) If the Minister— 40
- (a) sets aside any decision or action by the executive officer, the prescribed fee
paid by the appellant in respect of the appeal must be refunded to him or her;
or
- (b) varies any decision or action by the executive officer, the Minister may direct 45
that the whole or any part of such fee, be refunded to the appellant.

Preservation of confidentiality

27. Subject to the provisions of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000), no person may, except for the purposes of exercising his or her
powers in terms of this Act, or for the purposes of legal proceedings under this Act, or
when required to do so under a law, disclose to any other person information acquired 50
by him or her in the exercise of those powers relating to the business or affairs of any
person.

Uphando kwakunye nengqwalasela yeBhunga leZibheni

- 25.** (1) UMphathiswa angabhekisa isibheni kwiBhunga leZibheni.
- (2) Isibheni kumele simanyelwe ngomhla, ngexesha nakwindawo eza kutshiwo ngusihlalo.
- (3) Usihlalo kumele amazise umbheni nabanye abachaphazelekayo kwisibheni 5 ngokubhala phantsi umhla, ixesha kwakunye nendawo esiza kumanyelelwa kuyo.
- (4) Usihlalo unako, ngenxa yeenjongo zokumanyelwa kwesibheni—
- (a) ukuyalela nabani na angaba nolwazi oluyimfuneko ngokumayelana nalo mba wokumanyelwa okanye onawo nawaphi na amaxwebhu angaluncedo kulo mba wokumanyelwa, ukuba avele kwiBhunga leZibheni ngomhla, ngexesha 10 nakwindawo ethile kuloo miyalelo, uza kubuzwa okanye kuza kumele aveze amaxwebhu, kwaye usihlalo angawagcina ukuze awahlale; aze
- (b) ngaphantsi kwesifungo okanye amkele isiqinisekiso esisuka kuye nawuphi na umntu obizwa ngengqina ekumanyalweni kwesibheni.
- (5) Umntu obhenayo ngokwemimiselo yesoloty 23 kunye negosa eliphezulu 15 bangabakhona.
- (6) Ukuba ilungu leBhunga leZibheni—
- (a) liyabhubha ngexesha kusenziwa uphando lwesibheni okanye kanye emva koqala kophando sibe eso sithuba singenakuvalwa kwangexesha;
- (b) alinako ukusebenza abe omnye umntu angenakutyunjwa kwangexesha; 20 okanye
- (c) emva kokuba luqalile olu phando, angakwazi ukuqhubeka nalo ke ngoko, amahlakani anako ukuvumelana ukuba uphando lungaqhutywa ngamalungu ashiyekileyo eBhunga leZibheni.
- (7) Kwimeko apho ilungu leBhunga leZibheni elibhubhileyo okanye elingasakwazi 25 ukusebenza nanjengoko kudakaciwe kwisolotyana (6) belingusihlalo okanye lingusihlalo weBhunga leZibheni, uMphathiswa kumele atyumbe elinye lamalungu ashiyekileyo leBhunga leZibheni ukuba libe ngusihlalo.

Ukuqwalaselwa kwezibheni nguMphathiswa

- 26.** (1) Xa uMphathiswa ebhekise isibheni kwiBhunga leZibheni ngokwemimiselo 30 yesoloty 24(1), unako—
- (a) ukuqinisekisa okanye ukubekela bucala izindululo zeBhunga leZibheni; aze
- (b) ayalele igosa eliphezulu ukuba lenze eso sigqibo ekugqityiwe kuso ngokumayelana noku.
- (2) Xa uMphathiswa eqwalasela isibheni, unako— 35
- (a) ukuqinisekisa, ukubekela bucala okanye ukuthelekisa isigqibo segosa eliphezulu; aze
- (b) ayalele igosa eliphezulu ukuba lenze eso sigqibo ekugqityiwe kuso ngokumayelana noku.
- (3) Isigqibo soMphathiswa kumele sibhalwe phantsi kwaye ikopi kumele inikwe 40 igosa eliphezulu, umbheni kwakunye naye nabani na ochaphazelekayo sesi sibheni.
- (4) Ukuba uMphathiswa—
- (a) ubekela bucala naso nasiphi na isigqibo okanye isenzo segosa eliphezulu, iindleko ezidakaciweyo ezihlawuliweyo ngumbheni ngokumayelana nesibheni kumele zibuyiselwe kuye; okanye 45
- (b) akangqinelani naso nasiphi na isigqibo okanye isenzo segosa eliphezulu, uMphathiswa angayalela ukuba iindleko zonke okanye inxalenye yazo, ibuyiselwe kumbheni.

Ukugcina Kweendaba izezakwamkhozi

- 27.** Ngokuxhomekeka kwizindululo zoMthetho oPhakamisa uKufunyanwa koLwazi, 50 ka-2000 (uMthetho No. 2 ka-2000), akukho mntu unako, ngaphandle ngokweenjongo zokusebenzisa amandla akhe ngokwemimiselo yalo Mthetho, okanye ngeenjongo zeenkqubo zomthetho ngaphantsi kwalo Mthetho, okanye xa eceliwe ngaphantsi kwalo mthetho, ukuveza iinkcukacha zaye nawuphi na umntu azifumeneyo ngelokusebenzisa loo mandla anxulumene neshishini okanye izinto zakhe nawuphi na umntu. 55

Offences and penalties

28. (1) A person is guilty of an offence if he or she—
- (a) contravenes, refuses or fails to comply with a provision of section 13(1) or (3), including a condition imposed in connection with an import permit, or a condition in a notice referred to in section 13(2); 5
 - (b) is found in possession of regulated articles in respect of which there is a reasonable suspicion that they were moved from an infested area to a non-infested area as provided in the relevant regulation, imported without an import permit referred to in section 13(1), or contrary to a condition of a permit or a condition set out in a notice issued under section 13(2), and who is not able to give a satisfactory account of such possession; 10
 - (c) contravenes, refuses or fails to comply with a provision of section 14, 15 or 16;
 - (d) refuses or neglects to notify the executive officer as required by section 18 or to give him or her the requested further information; 15
 - (e) refuses or neglects to comply with or carry out a provision of a control measure, order or authority, including a condition imposed in connection with it;
 - (f) obstructs or hinders an executive officer, an officer or a delegate or assignee in the exercise of his or her powers or the performance of his or her duties; 20
 - (g) effects an unauthorised entry or deletion on a document issued or required under this Act;
 - (h) refuses or neglects to supply information, produce a document or give an explanation to a person who is authorised in terms of this Act to ask for it, or who supplies information or gives an explanation knowing it to be false; 25
 - (i) refuses or neglects to render the assistance contemplated in section 8(2)(b);
 - (j) damages, destroys, removes, shifts, alters or otherwise tampers with a marker, peg, label or other mark effected or erected for the purpose of demarcating a quarantine area or regulated area;
 - (k) damages, destroys, removes, shifts, alters or otherwise tampers with surveillance equipment; or 30
 - (l) discloses information contrary to section 27.
- (2) A person found guilty of an offence mentioned in subsection (1) is liable—
- (a) on a first conviction of an offence in terms of subsection (1)(a), (b) or (c), to a fine or imprisonment for a period not exceeding five years; 35
 - (b) on a first conviction of an offence in terms of subsection (1)(d), (e), (f) or (g), to a fine or imprisonment for a period not exceeding 18 months;
 - (c) on a second or subsequent conviction of an offence mentioned in subsection (2)(a), whether the same or some other offence mentioned in that subsection, in the case of a person, to imprisonment for a period not exceeding 10 years, and in the case of a juristic person, to a fine as determined by court of law. 40
 - (d) on a second or subsequent conviction of an offence mentioned in subsection (2)(b), whether the same or some other offence mentioned in that subsection, to a fine or to imprisonment for a period not exceeding three years; and
 - (e) on conviction of an offence in terms of subsection (1)(h), (i), (j), (k) or (l), to a fine or imprisonment for a period not exceeding two months. 45
- (3) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall be competent to impose any fine or imprisonment provided for in this section.

Ulwaphulo-mthetho nezohlwayo

28. (1) Umntu unetyala lolwaphulo-mthetho ukuba uye—
- (a) wophula, wala okanye wasilela ukuthobela izindululo zesolotyana 13(1) okanye (3), oko kuquka nemibandela ebekiweyo ngokumayelana nemvume yokungenisa imithwalo kweli, okanye umbandela okwisaziso ekubhekiswa kuso kwisolotyana 13(2); 5
 - (b) wafunyaniswa eneemveliso ezilawulwayo nokunezizathu ezibambekayo zokukholelwa ukuba zisuswe kwindawo ekuqhambuke kuyo zasiwa kwindawo ekungaqhambukanga kuyo nanjengoko kutshiwo kwimiqathango elawulayo, zihanjiswe ngaphandle kwemvume yokungeniswa kwemithwalo ekubhekiswa kuyo kwisolotyana 13(1), okanye ke kwimibandela yemvume okanye imibandela edakacwe kwisaziso ngaphantsi kweli solotyana 13(2), kwaye abe engakwazi ukunika ingxelo evakalayo ngokuba nezi zinto kuye; 10
 - (c) wophula, wala okanye wasilela ukuthobela izindululo zesolotyana 14, 15 okanye 16; 15
 - (d) waya okanye akakuhoya ukwazisa igosa eliphezulu nanjengeko kufuneka enze njalo ngokwesolotyana 18 okanye ukumnika iinkcukacha azicelileyo;
 - (e) wala okanye wakubethisa ngoyaba ukuthobela okanye ukulandela imigqaliselo yolawulo, eyomyalelo okanye eyabasemagunyeni, oko kuquka nombandela obekwe ngokumayelana nayo; 20
 - (f) wathintela okanye walela igosa eliphezulu, igosa, umthunywa okanye umsebenzi ukuba asebenzise amandla akhe okanye enze umsebenzi wakhe;
 - (g) wangena engagunyaziswanga okanye wacima amaxwebhu akhutshiweyo okanye afunwa ngaphantsi kwalo Mthetho;
 - (h) wala okanye akazizisa iinkcukacha, akawaveza amaxwebhu okanye anike ingcaciso kumntu ogunyaziswe ngokwemimiselo yalo Mthetho ukuba azicele, okanye onika iinkcukacha okanye onika ingcaciso eyazi ukuba ibubuxoki; 25
 - (i) wala okanye akalunikeza uncedo oludakacwe kwisolotyana 8(2)(b);
 - (j) wonakalisa, watshabalalisa, wasusa, wabhekelisa, watshintsha okanye ngandlela ithile waphazamisana nesiphawuli, ibhakana, uphawu okanye nasiphi na isiphawuli esichaphazelekayo okanye esimisiweyo ngeenjongo zokusika indawo yokuvalelwa okanye indawo elawulwayo; 30
 - (k) wonakalisa, watshabalalisa, wasusa, wabhekelisa okanye ngandlela ithile waphazamisana nezixhobo zokujonga; okanye 35
 - (l) waveza iinkcukacha ngokuchasene nesolotyana 27.
- (2) Umntu ofunyaniswe enetyala lolwaphulo-mthetho oludakacwe kwisolotyana (1) uza kuthwaliswa ityala—
- (a) lolwaphulo-mthetho lokuqala ngokwemimiselo yesolotyana (1)(a), (b) okanye (c), afumane umdliwo okanye avellewe entolongweni iminyaka engadlulanga kwemihlanu; 40
 - (b) lolwaphulo-mthetho lokuqala ngokwemimiselo yesolotyana (1)(d), (e), (f) okanye (g), adliwe okanye avellewe entolongweni ixesha elingadlulanga kwiinyanga ezili-18;
 - (c) kwityeli lesibini nangaphazelu lokubanjwa ngolwaphulo-mthetho olukhankanywe kwisolotyana (2)(a), nokuba yinto enye okanye lolunye ulwaphulo-mthetho olukhankanyiweyo kwelo solotyana, kwityala lomntu, uza kuya entolongweni iminyaka engadlulanga kweli-10, kwaye kwimeko yombutho, umdliwo uza kuqingqwa yinkundla yomthetho; 45
 - (d) kwityeli lesibini nangaphazelu lokubanjwa ngolwaphulo-mthetho olukhankanywe kwisolotyana (2)(b), nokuba yinto enye okanye lolunye ulwaphulo-mthetho olukhankanyiweyo kwelo solotyana, uza kudliwa okanye asiwe entolongweni ixesha elingadluliyo kwiminyaka emithathu; kwaye 50
 - (e) ekubanjweni kokuqala kulwaphulo-mthetho ngokwemimiselo yesolotyana (1)(h), (i), (j), (k) okanye (l), uza kudliwa okanye asiwe entolongweni ixesha elingadlulanga kwiinyanga ezimbini. 55
- (3) Nokuba nantoni na echasene nawo nawuphi na umthetho oqulathiweyo, inkundla kamantyi iza kubanalo igunya lokunika umdliwo okanye imthumele entolongweni ngokwezindululo zeli solotyana.

Liability of employer

29. (1) When a manager, representative, agent, employee or member of the family of a person (in this section referred to as the principal) does or omits to do any act, and it would be an offence in terms of this Act for the principal to perform or omit to do such act himself or herself, that principal shall be deemed himself or herself to have done or omitted to have done the act, unless he or she satisfies the court that— 5

- (a) he or she neither connived at nor permitted the act or omission by the manager, representative, agent, employee or member concerned;
- (b) he or she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged, on no condition or under no circumstance came within the scope of the authority or employment of the manager, representative, agent, employee or member concerned. 10

(2) In the application of subsection (1)(b), the fact that such principal issued instructions whereby an act or omission of that nature is prohibited, does not in itself mean that he or she took all reasonable steps to prevent the act or omission. 15

(3) When a principal is by virtue of subsection (1) liable for an act or omission by a manager, representative, agent, employee or member of his or her family, that manager, representative, agent, employee or member shall also be liable thereof as if he or she is the principal concerned. 20

(4) Subsection (2) shall not release a manager, representative, agent, employee or member contemplated in that subsection from any other liability which he or she may have incurred apart from the liability which he or she shares with the principal concerned.

(5) In the application of this section in criminal proceedings, evidence that any article was at the time of the act or omission charged, in the possession or under the custody, supervision, control or care of any manager, representative, agent, employee or member of the family of the principal, shall be *prima facie* proof that the principal concerned is the owner of the article concerned. 25

Regulations

30

30. (1) The Minister may make regulations regarding—

- (a) the manner in which application must be made for an import permit, other permit, authorisation, phytosanitary certificate or inspection;
- (b) the points of entry or exit through which regulated articles must be imported in terms of section 13 or exported in terms of section 14; 35
- (c) fees payable in terms of this Act;
- (d) the manner in which a notice, authorisation, order or other document mentioned in this Act may be served;
- (e) the manner in which and the period within which an appeal may be noted in terms of section 23, the officer by whom and the manner in which the refusal or conduct concerned must be investigated, the manner in which an appellant may submit information or evidence or make representations, whether personally or through a legal representative, and the preparation and submission of a report and recommendation to the Minister; 40
- (f) the manner in which regulated articles must be presented for inspection; 45
- (g) the listing of regulated pests;
- (h) the declaration of pest-free areas and areas of low pest prevalence;
- (i) the declaration of pest-free places of production;
- (j) the declaration of pest-free production sites;
- (k) the declaration of quarantine areas; 50
- (l) the listing of regulated articles;
- (m) the manner in which the executive officer must deal with regulated articles for export found to be infested;
- (n) any matter required or permitted to be prescribed under this Act; and

Uxanduva lomqeshi

29. (1) Xa umphathi, umthunywa, i-arhente, umsebenzi okanye ilungu losapho lomntu (kweli soloty kubhekiswa kulo njengenqununu) wenza okanye angenzi nasiphi na isenzo, kwaye kuza kuba lulwaphulo-mthetho ngokwemimiselo yalo Mthetho ukuba inqununu yenze okanye ingenzi isenzo esinjalo ngokwayo, loo nqununu iza kuzibona njengosenzileyo okanye ongasenzenga isenzo, ngaphandle kokuba uye wayanelisa inkundla ukuba— 5

- (a) akhange agqugule okanye avumele umphathi, umthunywa, umsebenzi okanye ilungu ekuthethwa elo;
- (b) uthathe onke amanyathelo afanelekileyo ukuthintela ukungenziwa; kwaye 10
- (c) isenzo okanye ukungenziwa, nokuba kusemthethweni okanye akukho semthethweni, wohlobo olumangalelweyo, kungekho mbandela okanye kungekho meko eze phakathi kwemida yabasemagunyeni okanye kwingqesho yomphathi, eyomthunywa, eye-arhente, eyomsebenzi okanye eyelungu ekubhekiswa kulo. 15

(2) Ekwenziweni kwesolotyana (1)(b), into yokuba loo nqununu ikhuphe umyalelo apho isenzo okanye ukungenziwa kwaloo nto bekungavumelekanga, ukuba yona ngokwayo ayithethi ukuba uthathe onke amanyathelo avakalayo ukuthintela ukwenziwa okanye ukungenziwa.

(3) Apho inqununu ngokwemeko zesolotyana (1) inoxanduva lesenzo okanye ukungenziwa kwaso ngumphathi, umthunywa, i-arhente, umsebenzi okanye ilungu losapho lwakhe, umphathi, umthunywa, i-arhente, umsebenzi okanye ilungu nabo baza kuba noxanduva ngokufanayo nenqununu ekuthethwa ngayo. 20

(4) Isolotyana (2) alizukukhulula umphathi, umthunywa, i-arhente, umsebenzi okanye ilungu elidakacwe kweli solotyana kuxanduva ekungenzeka ukuba ulwenze ngokungaphandle kolu abelana ngalo nenqununu ekubhekiswa kuyo. 25

(5) Ekwenziweni kweli soloty kwiinqubo zolwaphulo-mthetho, ubungqina bokuba imveliso eyayikhona ngexesha lesenzo okanye lokungenziwa okubekiweyo, ibingaphantsi kolawulo okanye kwenkathalo yomphathi, yomthuntwa, ye-arhente, yomsebenzi okanye yelungu losapho lenqununu, buza kuba bubungqina bokuqala bokuba inqununu ekubhekiswa kuyo ngumnini wemveliso ekubhekiswa kuyo. 30

Imiqathango

30. (1) UMphathiswa angenza imiqathango ngokumayelana—

- (a) nendlela isicelo ekumele senziwe ngayo sokufumana imvume yokungenisa kwemithwalo kweli, sezinye iimvume, izigunyaziso, isatifiketi sempilo yezityalo okanye uhlolo; 35
- (b) neendawo zokungena okanye zokuphuma nalapho imveliso ezilawulwayo kumele zingeniswe khona ngokwemimiselo yesolotyana 13 okanye zikhutshwe khona ngokwemimiselo yesolotyana 14;
- (c) iindleko ekumele zihlawulwe ngokwemimiselo yalo Mthetho; 40
- (d) indlela isaziso, isigunyaziso, umyalelo okanye amanye amaxwebhu akhankanyiweyo kulo Mthetho ekumele ahanjise ngayo;
- (e) indlela apho kwanexesha isibheni ekumele siphawulwe ngayo ngokwemimiselo yesolotyana 23, igosa kwanendlela yokwala okanye indlela yokuziphatha ekubhekiswa kuyo kumele iphandwe, indlela umbheni ekumele ahambise ngayo iinkcukacha okanye ubungqina okanye enze izaziso, nokuba uzenza ngokwakhe okanye ngegqwetha, kwaye ulungiselele lokufakwa kwengxelo kwakunye nezindululo zoMphathiswa; 45
- (f) indlela ekumele imveliso ezilawulwayo ziziswe ngayo kuhlolo;
- (g) udweliso lwezimbuzane ezilawulwayo; 50
- (h) ukubhengezwa kweendawo ezingenazinambuzane neendawo ezinokuqhambuka okuncinci kwazo;
- (i) ukubhengezwa kweendawo zemveliso ezingenazinambuzane;
- (j) ukubhengezwa kwamaziko emveliso angenazinambuzane;
- (k) ukubhengezwa kweendawo zovalelo; 55
- (l) udweliso lweemveliso ezilawulwayo;
- (m) uhlobo igosa eliphezulu ekumele liqubisane ngayo neemveliso ezilawulwayo eziya kwamanye amazwe ezifunyenwe zizele;
- (n) nawuphi na umba ofunekayo okanye uvunyelelweyo kumele udakacwe ngaphantsi kwalo Mthetho; 60

- (o) any incidental matter of a procedural or administrative nature that may be necessary to prescribe in order to achieve the objects of this Act.
- (2) Different regulations may be made in terms of this section in respect of different areas in the Republic or in such other aspects as may be deemed necessary.
- (3) A regulation prescribing fees may be made only after consultation with the Minister of Finance. 5

Compensation

- 31.** (1) If a regulated article has been destroyed by virtue of an order contemplated in section 7(1)—
- (a) the Minister may, out of funds appropriated by Parliament for that purpose, pay such compensation as he or she may consider reasonable; 10
 - (b) an application for the payment of compensation under subsection (1)(a) may be considered only if—
 - (i) it is submitted in writing to the executive officer concerned within 90 days after the date on which the regulated articles in question have been destroyed; and 15
 - (ii) it is done in a prescribed manner.
- (2) No compensation is payable to a person in respect of the rendering of assistance in terms of section 8(2)(b).

Assistance and cooperation 20

- 32.** The executive officer—
- (a) must exercise his or her powers and perform his or her functions in accordance with the principles of cooperative government and intergovernmental relations with other national, provincial and local spheres of government and all other organs of state within each sphere, as provided for in Chapter 3 of the Constitution of the Republic of South Africa, 1996, and the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005); and 25
 - (b) may, for the purposes contemplated in paragraph (a), request the assistance and cooperation from other national, provincial and local authorities, including traditional councils, the research institutes, associations, organisations and other relevant bodies. 30

Limitation of liability

- 33.** No person, including the State, is liable in respect of anything done in good faith and without negligence in the exercise of a power or the performance of a duty conferred or imposed upon him or her under this Act. 35

Provisions binding State

- 34.** (1) The provisions of this Act bind the State.
(2) No fees payable under this Act are payable by the State.

Application of international agreements

- 35.** This Act gives effect to ratified international agreements affecting phytosanitary matters to which South Africa is a Party, and which bind the Republic. 40

Transitional provisions

- 36.** (1) A permit issued in terms of the Agricultural Pests Act, 1983 (Act No. 36 of 1983), and which is in force at the date of commencement of this Act, is regarded to be a permit issued under this Act. 45

- (o) kwaye nawuphi na umba wesiganeko wenkqubo okanye wolawulo onganyanzeleka ukuba udakacwe ukuze kuphunyezwe iinjongo zalo Mthetho.
- (2) Imiqathango eyahlukileyo ingenziwa ngokwemimiselo yeli soloty ngokweendawo ezahlukileyo kwiRiphabliki okanye ezinye iinkalo ekunobonakala kunyanzelekile kuzo. 5
- (3) Imiqathango ngokuphathelene neendleko kumele yenziwe kuphela emva kokuthethana noMphathiswa weMali.

Imbuyekezo

31. (1) Ukuba imveliso elawulwayo itshatyalaliswa ngenxa yomyalelo odakacwe kwisoloty 7(1)— 10
- (a) uMphathiswa unako, ngemali ayabelwe yiPalamente ngezo njongo kanye, ukuhlawula imbuyekezo ngokwendlela abona kufanelekile ngayo;
- (b) isicelo sentlawulo yembuyekezo ngaphantsi kwesolotyana (1)(a) singaqwalaselwa kuphela xa—
- (i) sifakwe ngembalelwano eya kwigosa eliphezulu elichaphazelekayo zingaphelanga iintsuku ezingama-90 emva komhla iimveliso ezilawulwayo ekuthethwa ngazo zitshatyalalisiwe; kwaye 15
- (ii) yenziwe ngendlela ethile edakaciweyo.
- (2) Akukho mbuyekezo eza kuhlululwa kumntu ebencedisa ngokwemimiselo yesoloty 8(2)(b). 20

Uncediso nentsebenziswano

32. Igosa eliphezulu—
- (a) kumele lisebenzise amandla alo kwaye lenze umsebenzi walo ngokuhambelana nemigomo yorhulumente wentsebenziswa kunye nobudlelwane phakathi koorhulumente nesizwe, amaphondo noorhulumente basemakhaya kwakunye nazo zonke izigaba zikarhulumente, nanjengoko zinikiwe kwiSahluko 3 soMgaqo-siseko weRiphabliki yoMzantsi Afrika, ka-1996, uMthetho weSiseko Somsebenzi woBudlelwane Phakathi koorhulumente, ka-2005 (uMthetho No. 13 ka-2005); kwaye 25
- (b) unako, ngeenjongo ezidakacwe kumhlathi (a), ukucela uncdo kwakunye nentsebenziswano kwisizwe, kumaphondo nakoorhulumente basemakhaya, oko kuquka amabhunga eenkosi, amaziko ophando, amaqumrhu, imibutho kwakunye namanye amabhunga achaphazelekayo. 30

Imida yoxanduva

33. Akukho mntu, nkqu noMbuso, unoxanduva xa kusiziwa kuyo nantoni na eyenziweyo ngomoya omhle kwaye ngaphandle kokungakhathali ekusetyenzisweni kwamandla okanye ekwenziweni komsebenzi obekiweyo kuloo mntu ngulo Mthetho. 35

Izindululo ezibophelela uMbuso

34. (1) Izindululo zalo Mthetho ziyawubopha uMbuso.
- (2) Akukho zindleko ezingaphantsi kwalo Mthetho eziza kuhlululwa nguMbuso. 40

Isicelo sesivumelwano samazwe ngamazwe

35. Lo Mthetho unika igunya kwizivumelwano esityikitywe ngamazwe ngamazwe semiba yempilo yezityalo nalapho uMzantsi Afrika uyiNxalenye, nobophelela iRiphabliki.

Izindululo zonaniselwano

36. (1) Imvume ekhutshwe ngokwemimiselo yoMthetho weZinambuzane zoLimo, ka-1983 (uMthetho No. 36 ka-1983), noza kunyanzeliswa ngomhla wokuqalisa kwalo Mthetho, ithathwa njengokuba yimvume ekhutshwe ngaphantsi kwalo Mthetho. 45

(2) A notice issued under the Agricultural Pests Act, 1983, and still in force at the date of commencement of this Act, is regarded to be a notice issued under this Act.

(3) A written notice issued in terms of section 8(1) of the Agricultural Pests Act, 1983, or an Act repealed by that Act, which is in force at the date of commencement of this Act, is regarded to be an order issued under section 6 of this Act.

5

(4) A regulation made under the Agricultural Pests Act, 1983, and still in force on the date of commencement of this Act, is regarded to be a regulation made under this Act.

Repeal of laws

37. Subject to section 36(1) and (2), the Act mentioned in the Schedule is hereby repealed to the extent set out in the third column thereof.

10

Short title and commencement

38. (1) This Act is called the Plant Health (Phytosanitary) Act, 2024.

(2) This Act comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Isaziso esikhutshwe ngaphantsi koMthetho weZinambuzane zoLimo, ka-1983, nosanyanzeliswayo ngomhla wokuqalisa kwalo Mthetho, sithathwa njengesaziso esikhutshwe ngaphantsi kwalo Mthetho.

(3) Isaziso esibhalwe phantsi ngokwemimiselo yesolotya 8(1) loMthetho weZinambuzane zoLimo, ka-1983 okanye uMthetho ocinywe nguloo Mthetho, onyanzeliswayo ngomhla wokuqalisa kwalo Mthetho, sithathwa ngokuba singumyalelo okhutshwe ngaphantsi kweli solotya 6 lalo Mthetho. 5

(4) Umqathango owenziwe ngaphantsi koMthetho weZinambuzane zoLimo, ka-1983, nosanyanzeliswayo ngomhla wokuqalisa kwalo Mthetho, uthathwa njengomqathango owenziwe ngaphantsi kwalo Mthetho. 10

Ukucinywa kwemithetho

37. Ngokuxhomekeke kwisolotya 36(1) kunye (2), uMthetho okhankanyiweyo kwiShedyuli uye wacinywa ngolu hlobo kudakacwe ngalo kwikholam yesithathu ke ngoko.

Isihloko esifutshane kunye nexesha lokuqalisa 15

38. (1) Lo Mthetho ubizwa uMthetho weMpilo yeZityalo, ka-2024.

(2) Lo Mthetho uza kuqalisa ukusebenza ngomhla obekwe nguMongameli ngesibhengezo kwiGazethi.

40

SCHEDULE**ACT REPEALED BY SECTION 37**

Act No.	Short title of Act	Extent of Repeal
36 of 1983	Agricultural Pests Act, 1983	Section 3(1) to the extent that it relates to plants. Section 6 as a whole.

SHEDYULI

UMTHETHO OCINYWE LISOLOTYA 37

uMthetho No.	Isihloko esifutshane	Umgama wokuCinywa
36 ka-1983	UMthetho weZinambuzane zoLimo, ka-1983	Isoloty 3(1) ngokwendlela enxulumene nezityala. Isoloty 6 lilonke.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065