



Tonga

DISEASES OF PLANTS REGULATIONS

Chapter 44.10.1

2016 Revised Edition



DISEASES OF PLANTS REGULATIONS

Arrangement of Regulations

Regulation

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DISEASES OF PLANTS REGULATIONS¹

Made by The Queen in Council on 22nd December, 1964²

1. These regulations may be cited as the Diseases of Plants Regulations.
2. In these regulations unless the context otherwise requires—

“**diseases**” means any disease affecting trees, plants or vegetables caused by or consisting of the presence of any insect or fungus and any other disease affecting trees, plants or vegetables which the Minister may from time to time by proclamation declare to be a disease within the meaning of the Plant Quarantine Act whether or not caused by or consisting of the presence of any insect or fungus;

“**Director**” means Director of Agriculture;

“**diseased**” means affected with disease;

“**import**”, “**imported**”, “**importation**” refer only to trees, plants and vegetables imported from all countries beyond Tonga;

“**infested area**” means any islands or island groups or parts thereof declared by the Minister from time to time by notice in the Gazette to be an infested area;³

“**inspector**” means the Director and any other inspector appointed by the Minister with the consent of the Cabinet under the Plant Quarantine Act and for the purpose of the Rhinoceros Beetle Act shall include any person appointed as such by the Minister;

“**Minister**” means the Minister responsible for Agriculture;

“**occupier**” means the person in actual occupation of any land or if there is no such person the person entitled to the possession thereof;

“**rhinoceros beetle**” means the Rhinoceros Beetle (*Oryctes Rhinoceros* L.) and includes any egg pupa or larva of the Rhinoceros Beetle;

“**root disease**” means any root disease proclaimed to be a disease within the meaning of the Plant Quarantine Act;

“**tree**”, “**plant**” and “**vegetable**” respectively include the fruit or other product of any tree, plant or vegetable and every part of any tree, plant or vegetable and of the fruit and produce thereof;

“**vessel**” includes any means of conveyance by sea or air.⁴

PART I — REPEALED BY GS 9/1995.

PART II—RHINOCEROS BEETLE CONTROL

29. The following regulations shall apply to the infested area as hereinbefore defined.⁵
30. The landowner, or lease-holder, or where the land is utilised but not registered the occupier with the ultimate responsibility falling on the landowner, shall be responsible for clearing the land of rhinoceros beetles, and in particular, the destruction of sites deemed by an Inspector to be rhinoceros beetle breeding sites.⁶
31. An inspector shall give written notice in the form prescribed by Schedule VI, to the landowner, lease-holder, or the occupier with a copy to the landowner, that a specified area or rhinoceros beetle breeding site be cleared within a period of time specified in such notice but not to exceed 7 days.⁷
32. The inspector shall carry out an inspection of the specified area or rhinoceros beetle breeding site on the last of the days specified under regulation 31 hereof.⁸
33. If upon such inspection, the inspector finds that the specified area or rhinoceros beetle breeding site has not been cleared, or cleared unsatisfactorily or inadequately, he shall report his findings to the Director or his representative, who shall issue an “Order” in the form prescribed by Schedule VII to the landowner, lease-holder, or occupier with a copy to the landowner, as the case may be, that the said area or breeding site must be cleared within a period of time specified by such “Order”, but not to exceed 7 days.⁹
34. On the last of the days specified in such an “Order” referred to in the preceding regulation, a further inspection shall be carried out by two inspectors, and if they find that the said “Order” has not been complied with, then the Director shall immediately employ and pay workers at wages of a regular daily labourer, to carry out the necessary work.¹⁰

35. When such work referred to in the preceding regulation has been satisfactorily completed by the Department of Agriculture, Forests and Fisheries, the landowner or lease-holder, as the case may be, shall be requested in writing to pay within one month of such request all expenses incurred by the Department of Agriculture, Forests and Fisheries in carrying out the necessary work.¹¹
36. If the landowner or lease-holder, as the case may be, fails to make the said payment in full referred to in the preceding regulation within the specified period of one month then he shall be guilty of an offence.¹²
37. Upon conviction, the landowner or lease-holder, as the case may be, shall be liable to a fine of not less than twice the cost of the total amount spent on clearing work and the inspector's time, but not more than three times the said total amount, or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment. On each subsequent conviction, the penalty shall be doubled. In the ease of imprisonment, a rider shall be added that the convicted person should, where possible, be engaged upon rhinoceros beetle work.¹³
38. Where public works causes the creation of the rhinoceros beetle breeding sites, or where such sites are found along the foreshore, daily labour workers under the direction of an inspector, shall carry out all necessary work.¹⁴
39. All revenue received from fines herein imposed shall be equally divided between the Rhinoceros Beetle Control Fund and the General Revenue.¹⁵
40. No owner or occupier of land in the infested area shall use for any fence, pig sty, or other structure upon such land (except dwelling houses) any coconut logs or any posts of a type of tree prohibited from time to time by the Director by publication in the Gazette. Whenever coconut posts have been used in any dwelling house the inspectors shall have power to order the renewal of all posts which show decay and are, consequently, liable to be used by the beetle as breeding places.
41. The Prime Minister with the consent of Cabinet may declare by notice in the Gazette any area to be an infested area and he may also declare in the same manner any area to be free of rhinoceros beetle infestation.
42. No person shall remove or cause to be removed any tree root or vegetable matter of any kind or soil or compost material from an infested area to any other area outside such infested area without a certificate authorizing such removal signed by an inspector.
43. No person other than an inspector shall remove or cause to be removed from an infested area to any area outside such infested area any rhinoceros beetle or the larva or eggs thereof.
44. Any person travelling by vehicle, horse, foot or by any means whatsoever shall when called upon so to do by an inspector stop and permit an inspector to examine any baggage or thing being conveyed by such person and should

such baggage or thing contain or consist of any prohibited article or matter an inspector may impound the same and for the better enforcing of this regulation every inspector shall wear a red armband.

45. Any owner or occupier of land in the infested area who destroys or damages or permits to be destroyed or damaged any trees, palms or shrubs shall to the satisfaction of an inspector destroy by burning such trees, palms or shrubs or any parts thereof.
46. The owner or occupier of any land on which is situated a disused latrine shall cause the said latrine to be covered with sand at least 20 cm. in depth.
47. The owner of any land on which a timber mill is situated and the owner of the said mill shall ensure that all waste sawdust from the said mill shall be disposed of to the satisfaction of an inspector. In no circumstances shall such sawdust be disposed of by dumping in inland lakes or in the open sea.
48. Every person leaving any part of the infested area shall have his luggage, sleeping mats, and all private effects fumigated or thoroughly inspected to the satisfaction of an inspector.
49. Every Tongan owning or occupying land in the infested area who, after such land has been cleaned up, fails to keep the same clean and free from coconut husks, vegetable rubbish, or other refuse, shall be guilty of a breach of these regulations.
50. Any owner or occupier of any house in the infested area who shall use or permit to be used any coconut leaves or vegetable matter (except mats) for covering the floor of such house shall be guilty of a breach of these regulations.
51. Any person who, for the purposes of agriculture, cultivation and farming (or for any one or more of these purposes), clears or causes to be cleared any land not previously cleared for such purposes, shall remove and burn or shall cause to be removed and burned —
 - (a) all cuttings, weeds and undergrowth made or found in connection with such clearing; and
 - (b) all dead or decaying trunks, stumps and roots of trees felled or found in connection with such clearing.¹⁶

Beetle Traps

52. Any inspector appointed under the Plant Quarantine Act may enter upon any land in the infested area in the day-time and may place thereon any trap designed for the purpose of trapping the rhinoceros beetle or its grubs or larvae.
53. After placing any trap as described in regulation 52 hereof upon any land, the inspector shall direct the attention of the occupier, or if there is no occupier the owner of such land, to the trap, and shall inform the said occupier or

owner that the trap must not be damaged, destroyed or interfered with in any way.

54. Any person who wilfully damages, destroys or interferes with any trap set by the inspector shall be guilty of a breach of these regulations.

Inspection of Vessels

55. Any vessel or aircraft leaving any infested area for any other port or place in the Kingdom must be accompanied by a certificate signed by an inspector showing that such vessel or aircraft and everything it contains has been inspected and passed as being free of pests.

56.

- (1) An inspector shall be entitled to board any aircraft in airports or vessel in territorial waters fronting an infested or uninfested area for the purpose of inspecting such aircraft or vessel for the presence of rodent, rhinoceros beetle, insect, pest, disease to plant and animal, and may do all things which he reasonably considers necessary for the purpose of such inspection and for the destruction of any rodent, rhinoceros beetle, insect, pest or disease found thereon.¹⁷
- (2) The master or person in charge of an aircraft in airports or of a vessel in territorial waters shall on request by an inspector give all reasonable facilities to enable the inspection to be carried out.¹⁸

57.

- (1) The master or person in charge of a vessel which is in territorial waters fronting an infested area and which has while in those waters any contact with such area shall not take the vessel out of such waters for the purpose of calling at any place in the Kingdom outside the infested area unless the vessel has been inspected by an inspector since its most recent contact with the infested area.
- (2) For the purpose of this regulation contact with the infested area means the coming on board of any person or the receiving on board of anything from the infested area.

Vessels to lie in Stream

58. The master or person in charge of any vessel which within 20 days prior to her arrival at any port or place in the Kingdom has called at any port or place in any country (including the Kingdom of Tonga) where, in the opinion of the Director or the Senior Officer of the Department for the time being stationed at Vava'u, rhinoceros beetle exists shall move and keep his vessel at least one mile off shore between one hour before sunset and one hour after sunrise while in territorial waters.¹⁹

59. During such period there shall be no contact as defined in regulation 57(2) hereof between the said vessel and shore. Notice of such requirement shall be given by the Director or the Senior Officer of the Department for the time being stationed at Vava'u within one hour of the arrival of such vessel to the master, owner, or agent thereof. For the purposes of this regulation the Director shall have all the powers, authority and duties of the Harbour Master as defined in section 8 of the Harbours Act:

Provided however that the Cabinet on the advice of the Director may by order allow passengers on overseas vessels which have previously visited an infested port or place but have not loaded cargo at such port or place to visit a specified shore during the prohibited period between sunset and sunrise provided for in regulation 58 hereof.²⁰

60. Notwithstanding the provisions of regulations 58 and 59, the Director may exempt a vessel from the requirements to lie in stream where he is satisfied, after due inspection of that vessel by an inspector, that the vessel is free from rhinoceros beetle, rodent, insect and pest disease to plant and animal.²¹

Vessels unable to lie in Stream

61. If because of adverse weather conditions or for any other reason outside the control of the master or the person in charge of a vessel it is not possible for such vessel to be moved from the wharf, the following procedure shall be adopted —
- (a) all hatches shall be closed between one hour before sunset and one hour after sunrise;
 - (b) for the same period such vessel shall remain fully lighted with all deck lights on;
 - (c) for the same period, only passengers or crew of such vessel who are not carrying baggage may have ship to shore contact;
 - (d) notice of failure to leave the wharf shall be given to the Director or an Inspector of Agriculture by the master or person in charge of such vessel as soon as possible and at latest before one hour before sunset.
62. No local vessel or aircraft shall voyage or travel to or from any part or between any parts of the infested area, with the exception of any vessel/or aircraft approved, on such conditions as he may specify, by the Minister.²²
63. Except as stated in regulation 62, no vessel or aircraft of any kind shall voyage or travel from any part of the infested area to any other part of the Kingdom, provided that the Cabinet may in its discretion waive the operation of this regulation in respect of any vessel or aircraft other than a local vessel or aircraft.²³

Procedure and Penalties

64. Every summons for an offence against Part II of these regulations or against any of the provisions of the Plant Quarantine Act shall be taken out within 28 days of the offence.
65. Any person acting in contravention of Part II of these regulations shall be liable on conviction thereof before a magistrate subject to the provisions of the Rhinoceros Beetle Act to a fine not exceeding \$100 or to imprisonment for a term not exceeding 2 years or to both such fine and such imprisonment.

SCHEDULE IV²⁴

DISEASES OF PLANTS REGULATIONS

Notice to Master or person in charge of vessel, failing to comply with regulation 58

WHEREAS by virtue of Regulation 58 made under the provisions of the Plant Quarantine Act, you are required to move and keep your vessel at least one mile off shore between one hour before sunset and one hour after sunrise while in Tongan Territorial Waters:

AND WHEREAS you have failed to comply with the requirements of the said Regulation 58 or to signify your intention of doing so:

Now THEREFORE TAKE NOTICE that you are required forthwith to show cause why legal proceedings should not be taken against you for a breach of the said Regulation.

Dated the day of

.....

*For the Government of Tonga
Director of Agriculture,*

SCHEDULE V

(Regulation 55)

RHINOCEROS BEETLE INSPECTION CERTIFICATE

No Date

To the Master of This is to certify that
the vessel which has been inspected for

Rhinoceros Beetle is allowed to clear port of by
..... a.m./p.m. on 20

Time Sailing for Time inspected

Cargo Remarks

..... *Signed*

Inspector.

SCHEDULE VI

(Inserted G.S. 46/69)

(Regulation 31)

Government of Tonga

DEPARTMENT OF AGRICULTURE

Date

Number

(Rhinoceros Beetle Regulations)

In pursuance of the powers conferred upon me by Regulation 31 of the Diseases of Plants Regulations, I hereby notify you

(Landowner, lease-holder, or occupier)

..... holding land

at to destroy

(Name of District/Village)

the Rhinoceros Beetle Breeding Site together with all forms of the Beetle contained therein, situated upon your land as indicated by me within days from the day you receive this notice.

.....

*Rhinoceros Beetle Inspector
Department of Agriculture,
Forests and Fisheries*

SCHEDULE VII

(Inserted G.S. 46/69)

(Regulation 33)

Government of Tonga

DEPARTMENT OF AGRICULTURE

Date

Number

In pursuance of the powers conferred upon me by Regulation 33 of the Diseases of Plants Regulations, I hereby ORDER you

(Landowner, lease-holder, or occupier)

..... holding land at

..... to destroy

(Name of District/Village)

or cause to be destroyed the Rhinoceros Beetle Breeding Site, together with all forms of the Beetle contained therein, situated upon your land as indicated by the Rhinoceros Beetle Inspector within days from the day you receive this ORDER.

.....

Director of Agriculture

ENDNOTES

- ¹ By section 45 of the Plant Quarantine Act, these Regulations, originally made under the Rhinoceros Beetle Act, are deemed to have been made under the Diseases of Plants Act
- ² GS 2/1965, 44/1965, 1/1966, 41/1966, 46/1969, G. 13/1971, G.S. 2/1977, Act 46 of 1988
Amended by GS 9/1995 (Plant Quarantine Regulations, Cap. 44.10.6), commencement 20 December 1995
- ³ Amended by G.S. 44 of 1965
- ⁴ Amended by G.S. 1 of 1966
- ⁵ Substituted by G.S. 46 of 1969
- ⁶ Substituted by G.S. 46 of 1969
- ⁷ Substituted by G.S. 46 of 1969
- ⁸ Substituted by G.S. 46 of 1969
- ⁹ Substituted by G.S. 46 of 1969
- ¹⁰ Substituted by G.S. 46 of 1969, Amended by G. 13 of 1971
- ¹¹ Substituted by G.S. 46 of 1969
- ¹² Substituted by G.S. 46 of 1969
- ¹³ Substituted by G.S. 46 of 1969
- ¹⁴ Substituted by G.S. 46 of 1969, Amended by G. 13 of 1971
- ¹⁵ Inserted by G.S. 46 of 1969
- ¹⁶ Substituted by G.S. 1 of 1966
- ¹⁷ Substituted by G.S. 2 of 1977
- ¹⁸ Substituted by G.S. 2 of 1977
- ¹⁹ Amended by G.S. 1 of 1966
- ²⁰ Amended by G.S. 1 of 1966 and Act 42 of 2010
- ²¹ Added by G.S. 41 of 1966, Amended by G.S. 2 of 1977
- ²² Amended by Act 46 of 1988
- ²³ Amended by Act 42 of 2010
- ²⁴ Schedules I, II and III repealed by GS 9/1995
- ²⁵ Added by G.S. 44 of 1965