

SAINT VINCENT AND THE GRENADINES
PLANT PROTECTION ACT, 2005
ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

ADMINISTRATION

3. Powers of Minister
4. Designation of NPPO
5. Duties of NPPO
6. Appointment or designation of inspectors
7. Duties of inspectors
8. Designation of official laboratories and analysts
9. Plant quarantine stations

PART III

IMPORTS

10. Restrictions on importation
11. Import permit
12. Inspection on importation
13. Release of imports
14. Minister may restrict certain imports
15. Duty to report arrivals to the NPPO

PART IV

EXPORTS

16. Restriction on export
17. Inspection of exports

PART V

CONTAINMENT AND ERADICATION OF PESTS

18. Duty of occupier to notify NPPO
19. Order declaring a quarantine
20. Expiration of Order
21. Action where quarantine pest is present
22. Service of notice in absence of occupier
23. Declaration of phytosanitary emergency
24. Expiration of declaration
25. Declaration of pest free or low pest prevalence area

PART VI

ENFORCEMENT

26. Power of entry and search
27. Seizure and notice of seizure
28. Storage, removal etc.
29. Forfeiture
30. Confiscation and disposal
31. Evidence
32. Limitation on Liability
33. Compensation
34. Informality not to invalidate proceedings
35. Offences
36. Penalties

PART VII

MISCELLANEOUS

37. Appeal
38. Regulations etc.
39. Repeal and savings
40. Act to bind Crown



SAINT VINCENT AND THE GRENADINES

BILL FOR

ACT NO. OF 2005

I ASSENT

[L.S.]

AN ACT to prevent the introduction and to control the spread of plant pests, to protect plant resources; to facilitate trade in plants and plant products, and to regulate matters related thereto.

[]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:-

PART I

PRELIMINARY

1. This Act may be cited as the Plant Protection Act 2005.
2. In this Act,
 - “affected” means infected or infested with a pest;
 - “area” means an area, place or site of production;
 - “area of low pest prevalence” means an area, whether all or part of Saint Vincent and the Grenadines, as identified by the Minister, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures;
 - “beneficial organism” means an organism including fungi, bacteria, virus, virus-like organism and invertebrate or other animal, which is declared by the Minister in writing to be beneficial to flora or agricultural production;
 - “consignment” means a quantity of plants, plant products or other regulated articles being moved from one country to another and covered, when required, by a single phytosanitary certificate;

“contain” means apply phytosanitary measures in and applying around an infested area to prevent the spread of a pest;

“container” means a box, bag, or other receptacle in which plants, plant products or other regulated articles that may carry pests have been or are being transported;

“conveyance” means any vessel, aircraft, vehicle, cart, container, animal, or other thing that can convey plants, plant products, pests, beneficial organisms, or other regulated articles from one place to another;

“detain” means keep a consignment in official custody or confinement for phytosanitary reasons;

“entry” means the movement of a pest into an area where it is not yet present, or present but not widely distributed and being officially controlled;

“eradicate” means apply 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;

“germplasm” means a plant intended for use in breeding or conservation programmes;

“Government” means the Government of Saint Vincent and the Grenadines;

“import permit” means a permit in a form as may be prescribed;

“importer” means a person who, whether as owner, consignor, consignee, agent, broker or otherwise, is in possession of or in any way entitled to the custody of a plant, plant product, pest, beneficial organism or other regulated article landed or likely to be landed in Saint Vincent and the Grenadines from another country;

“inspection” means official visual examination of plants, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary requirements;

“inspector” means a person appointed or designated under section 6;

“introduction” means the entry of a pest resulting in its establishment in Saint Vincent and the Grenadines;

“IPPC” means International Plant Protection Convention, as may be amended from time to time;

“IPPC Secretariat” means the Secretariat of the International Plant Protection Convention;

“Minister” means the Minister responsible for agriculture;

“Ministry” means the Ministry responsible for agriculture;

“National Plant Protection Organisation” or “NPPO” means the official unit designated by the Minister under section 4 to discharge the functions assigned to that unit under the IPPC;

“occupier”, in relation to any land or building, means a person in actual occupation thereof;

“official” means established, authorised or performed by the NPPO;

“official control” means the active enforcement of mandatory phytosanitary requirements and the application of mandatory phytosanitary procedures with the objective of eradicating or containing quarantine pests or for the management of regulated non-quarantine pests;

“outbreak” means an isolated pest population, recently detected and expected to survive for the immediate future;

“owner”, in relation to any thing, includes any person having for the time being the possession, custody, or control thereof;

“packaging” means any material used to pack, contain, or keep plants, plant products or other regulated articles;

“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 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 certificate” means a certificate patterned after the model certificate of the IPPC, and which may be prescribed;

“phytosanitary emergency” means an emergency declared under section 23;

“phytosanitary measure” means any legislation or official procedure having the purpose of preventing the introduction or spread of quarantine pests, or limiting the economic impact of regulated non-quarantine pests;

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

“plants” means living plants and parts thereof, including seeds and germplasm;

“pre-clearance” means phytosanitary certification or clearance in the exporting country, performed by or under the supervision of the NPPO;

“premises” means land or a building or other structure situated on land;

“quarantine pest” means a pest of potential economic importance to the area endangered thereby, not yet present there, or present but not widely distributed and being officially controlled, and declared as such by Order;

“regulated article” means a storage place, packaging, conveyance, container, soil, or other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transport is involved, and includes beneficial organisms;

“regulated non-quarantine pest” means a pest which is not a 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 in Saint Vincent and the Grenadines, and which is declared as such by Order;

“soil” means material wholly or partly derived from the upper layer of the earth’s crust, which is capable of sustaining plant life and which contains solid organic substances such as parts of plants, humus, peat, or bark, but excluding any medium which is sterile, composed entirely of unused peat, or otherwise incapable of harbouring or transmitting pests;

“surveillance” means an official process facilitating the collection and recording of data on pest occurrence or absence by monitoring or other procedures;

“treatment” means an officially authorised procedure for killing or removing pests, or making pests infertile.

PART II

ADMINISTRATION

3. (1) The primary responsibility for the administration of this Act lies with the Minister.

(2) Notwithstanding subsection (1), the Minister may in writing delegate to the National Plant Protection Organisation, other government officials or any other person the performance of specified powers subject to conditions that may be specified.

4. (1) The Ministry responsible for agriculture is hereby designated the National Plant Protection Organisation.

(2) The Minister shall report the name of the NPPO to the IPPC Secretariat.

5. The duties of the NPPO shall include:

(a) implementing the IPPC and the International Standards for Phytosanitary Measures established thereto, including the following responsibilities required under Article IV of the IPPC-

(i) issuing phytosanitary certificates,

(ii) carrying out surveillance of growing plants, including areas under cultivation and wild flora, and of plants and plant products in storage

or being transported, for the purpose of reporting the occurrence, outbreak, and spread of pests, and of controlling those pests,

- (iii) inspecting consignments of plants and plant products and where appropriate, inspecting other regulated articles for the purpose of preventing the introduction or spread of pests, or both,
 - (iv) carrying out pre-clearance inspections where requested,
 - (v) disinfesting or disinfecting consignments of plants, plant products and other regulated articles,
 - (vi) protecting endangered areas and designating, maintaining, and surveying pest free areas and areas of low pest prevalence,
 - (vii) providing information to other countries concerning phytosanitary measures applied, either through pest risk analysis or by reference to applicable international standards,
 - (viii) notifying trading partners of relevant instances of non-compliance with import requirements,
 - (ix) ensuring the phytosanitary security of consignments after certification and before export,
 - (x) establishing audit and trace-back procedures for plants, plant products and other regulated articles for phytosanitary certification,
 - (xi) establishing minimum qualifications for overseeing training and development of inspectors and other NPPO staff,
 - (xii) distributing information concerning regulated pests and the means of their prevention and control,
 - (xiii) proposing, reviewing, and enforcing phytosanitary measures,
 - (xiv) notifying phytosanitary measures to other countries in accordance with international obligations, and
 - (xv) providing information concerning import and export regulations in force, and technical requirements for plants, plant products and other regulated articles, on the request of any interested international, regional, or other national plant protection organisation;
- (b) enforcing this Act, as well as any other legislation relating to plant protection as may be specified;
 - (c) representing Saint Vincent and the Grenadines in bilateral, regional, and international fora related to phytosanitary matters;
 - (d) developing pest diagnostic, investigative and analytical capabilities as well as establishing laboratories and quarantine stations at places as may be considered necessary; and

(e) establishing procedures for accrediting quarantine stations, official analysts, official laboratories, or any other person or institution from the public or private sector involved in phytosanitary matters.

6. The Public Service Commission or the Minister, as the case may be, may appoint or designate officers of the NPPO to carry out the duties assigned to inspectors under this Act.

7. (1) The duties of inspectors shall include the following:

(a) inspecting plants, plant products or other regulated articles under cultivation, in storage or in transit, in order to report the existence, outbreak, and spread of quarantine pests and regulated non-quarantine pests;

(b) inspecting consignments of plants, plant products or other regulated articles destined for import into or export from Saint Vincent and the Grenadines to determine whether they are affected, and where necessary, verify the pest status of consignments by taking samples or otherwise;

(c) ensuring the disinfestation or disinfection of consignments of plants, plant products or other regulated articles destined for import into or export from Saint Vincent and the Grenadines, as well as their containers, packaging, storage places, and transport facilities;

(d) ensuring that where waste is being disposed of from-

(i) aircraft, ships, and pleasure craft arriving in Saint Vincent and the Grenadines, and

(ii) premises which process or wash imported plants, plant products or other regulated articles,

no threat to plant resources in Saint Vincent and the Grenadines is caused;

(e) issuing phytosanitary certificates on behalf of the NPPO;

(f) inspecting and certifying exports of plants, plant products and other regulated articles from Saint Vincent and the Grenadines;

(g) carrying out detection activities to ensure the maintenance of up-to-date information on the pest status of Saint Vincent and the Grenadines;

(h) enforcing the provisions of this Act;

(i) attending to other matters as may be prescribed.

(2) An inspector may carry out an inspection under subsection (1) (b) in the territory of an exporting country as a pre-clearance inspection at the invitation of an exporting country.

(3) In carrying out his duties under subsection (1) or (2), an inspector shall, upon request, identify himself by showing his identification card or other proof of his appointment or designation.

8. The Minister may designate laboratories to be official laboratories and analysts to be official analysts to carry out analyses for the administration of this Act.

9. The NPPO may:

- (a) designate certain places as plant quarantine stations where plants, plant products or other regulated articles may be kept for phytosanitary observation, research, inspection, testing, treatment, detention, or destruction.
- (b) require that imported plants, plant products or other regulated articles be kept or cultivated at a plant quarantine station or at any other location identified by the NPPO and kept under the supervision of the NPPO for such time as the NPPO considers necessary.

PART III

IMPORTS

10. (1) Plants, plant products and other regulated articles may be imported into Saint Vincent and the Grenadines only at the prescribed ports of entry.

(2) The Minister, upon the advice of the NPPO, may require that certain plants, plant products or other regulated articles not be imported into Saint Vincent and the Grenadines except:

- (a) by virtue of an import permit granted under section 11 (1);
- (b) they are accompanied by -
 - (i) an original phytosanitary certificate dated not more than thirty days before the entry of the articles into Saint Vincent and the Grenadines, and
 - (ii) any other documentation that may be prescribed; and
- (c) they meet all other requirements that may be prescribed.

11. (1) Where an import permit is required under section 10 (2) (a), an importer shall apply to the NPPO in the prescribed manner and shall pay the prescribed fee, if any.

(2) In evaluating an application for an import permit, the NPPO shall apply existing international standards or conduct pest risk analysis in order to determine the applicable phytosanitary requirements.

12. (1) Plants, plant products and other regulated articles shall, upon importation into Saint Vincent and the Grenadines, be presented to an inspector for inspection at the prescribed port of entry.

(2) Notwithstanding subsection (1), upon application by the importer and where a container has been sealed and marked, certain plants, plant products and other regulated articles may be inspected by an inspector at their final destination, as may be prescribed.

(3) Inspections carried out under subsection (1) or (2) are subject to the prescribed fee, if any.

(4) Inspections under subsection (1) or (2) shall be carried out during regular working hours, except where the plants, plant products or other regulated articles are in transit or extremely perishable or where their entry has otherwise been delayed, in which case, upon application by the importer and upon payment of the prescribed fee, if any, the NPPO may agree to an inspection being carried out at any other time.

13. If upon inspection carried out under section 12 the inspector determines that the imported plants, plant products or other regulated articles do not present a risk of the introduction and spread of pests, he may release the consignment to the importer.

14. The Minister may, on the advice of the NPPO, to protect plant resources or the environment, or both:

- (a) permit the entry of a plant, plant product or other regulated article for scientific or experimental purposes, subject to terms and conditions that may be considered appropriate;
- (b) prohibit or restrict the entry of plants, plant products or other regulated articles into Saint Vincent and the Grenadines;
- (c) take any other necessary action to prevent the introduction or spread of quarantine pests.

15. (1) A worker of the Saint Vincent and the Grenadines Postal Corporation, private postal operator or private shipping concern or an official of the Customs Department, Saint Vincent and the Grenadines Port Authority or the Royal Saint Vincent and the Grenadines Police Force who has knowledge of the arrival of plants, plant products or other regulated articles in Saint Vincent and the Grenadines shall, as soon as is practicable, report the arrival to the NPPO and shall detain the plants, plant products or other regulated articles until the inspector takes custody of them.

(2) A detention carried out under subsection (1) shall be deemed to be an action taken by or on delegation from the NPPO.

(3) The NPPO shall take custody of any items detained under subsection (1) within three days of their detention.

PART IV

EXPORTS

16. A person shall not export plants, plant products or other regulated articles from Saint Vincent and the Grenadines unless he:

- (a) applies to the NPPO in the prescribed manner;
- (b) provides all documentations that are prescribed;
- (c) makes the consignment available for inspection under section 17;
- (d) pays the prescribed fees, if any.

17. (1) The NPPO shall, upon application by an exporter under section 16, cause an inspection of the consignment to be carried out, and:

- (a) issue a phytosanitary certificate in a form as may be prescribed where-
 - (i) the consignment meets the documentary and other requirements for import of the country to which the consignment is to be exported;
 - (ii) the consignment satisfies any other requirements for export specified by the NPPO or any applicable law in Saint Vincent and the Grenadines; or
- (b) deny the issue of a certificate where the requirements specified in subsection (1) (a) have not been met.

(2) Upon being issued a phytosanitary certificate under subsection (1) (a), the exporter shall pay the prescribed fee.

PART V

CONTAINMENT AND ERADICATION OF PESTS

18. The occupier or owner of premises in which a thing that a person suspects to be a pest is present or is suspected to be present shall immediately notify the NPPO.

19. (1) The Minister may, on the advice of the NPPO, by Order:

- (a) declare premises that are affected or are suspected of being affected with a quarantine pest to be under quarantine;
- (b) prescribe measures for the treatment or disposal of plants, plant products or other regulated articles and the treatment of conveyances whether or not they have been found to be affected, in order to limit the spread of quarantine pests;
- (c) prescribe the period of quarantine.

(2) For the purpose of subsection (1), “to quarantine” includes:

- (a) to prohibit the movement of people, conveyances, plants, plant products or other regulated articles from or to a specified location;
- (b) to prohibit the planting or replanting of a specified location;
- (c) to take any other measure which the Minister, on the advice of the NPPO, considers necessary under the circumstances.

20. An Order made under section 19 (1) expires in respect of some or all of the affected premises when the Minister, on the advice of the NPPO, determines that:

- (a) the relevant quarantine pest is no longer present in the premises in respect of which the quarantine was made;
- (b) it is no longer appropriate for the quarantine to be maintained in respect of some or all of the affected premises.

21. If the NPPO believes that a quarantine pest is present on any premises, it may:

- (a) authorise an inspector to-

- (i) enter the premises at a reasonable time,
 - (ii) inspect plants, plant products or other regulated articles, and
 - (iii) take samples as he may consider necessary;
- (b) require, by notice in writing, the owner or occupier of the premises, and if the NPPO considers it appropriate, the owner or occupier of any premises in the vicinity, to take within a period of time specified in the notice measures on his premises which the NPPO considers appropriate to eradicate, contain or restrict the spread of the pest.

22. If there is no person in actual occupation of any premises, or if the occupier cannot be found, service of any notice under this Act may be made by affixing the same in some conspicuous place on the premises, and such affixing shall be deemed to be sufficient service.

23. (1) The Minister may, on the advice of the NPPO, declare a phytosanitary emergency based on an inspection carried out under this Act or on analysis of samples taken under section 21 (a) (iii).

(2) The Minister may take such steps as may be practicable in the circumstances to bring a declaration to the notice of persons likely to be affected by it.

24. A declaration made under section 23 expires when the Minister, on the advice of the NPPO, determines that the conditions giving rise to the declaration of the phytosanitary emergency, no longer exist.

25. (1) Where the NPPO is satisfied that a pest is not present in an area, adopts phytosanitary measures to keep the area free of the pest, and institutes a surveillance system to verify that the area remains free of the pest, the Minister may declare it a pest-free area.

(2) Where the NPPO is satisfied that a pest occurs at low levels in an area, adopts phytosanitary measures to keep the pest levels low and institutes a surveillance system to verify that the pest levels remain low, the Minister may declare it an area of low pest prevalence.

PART VI

ENFORCEMENT

26. (1) For the purpose of detecting pests or ensuring compliance with this Act, an inspector may:

- (a) stop any conveyance, which the inspector believes on reasonable grounds may harbour a pest;
- (b) subject to subsections (2) and (3), at a reasonable time, enter and inspect any premises, not being a dwelling house;
- (c) open any container, receptacle or other thing that the inspector believes on reasonable grounds contains any thing in respect of which this Act applies;

(d) examine any thing in respect of which this Act applies and take samples of it.

(2) An inspector may not enter a dwelling house except with the consent of the occupier or under the authority of a warrant issued by a magistrate.

(3) An inspector may, with a warrant issued by a magistrate, enter and search any premises, where there is reasonable cause to believe that an offence against this Act has taken or is taking place.

(4) Where the seal on a sealed container containing plants, plant products or other regulated articles is to be broken, an inspector shall be present.

(5) An inspector may, in the performance of his duties under this section, be accompanied and assisted by a police officer.

27. (1) In the course of an inspection carried out under this Act, if an inspector believes on reasonable grounds that the provisions of this Act have been or are being contravened, or any plant, plant product or other regulated article presents a risk of the introduction or spread of pests, the inspector may seize the plant, plant product or other regulated article:

(a) by means of or in relation to which he believes on reasonable grounds that the contravention has been or is being committed;

(b) that he believes on reasonable grounds will afford evidence in respect of the contravention of the provisions of this Act.

(2) An inspector who seizes and detains a plant, plant product or other regulated article under this Act shall, as soon as is practicable, advise the owner of the plant, plant product or other regulated article of the reason for the seizure and that some or all of the plant, plant product or other regulated article may be subject within a specified time to any action specified in section 28.

(3) An inspector, who seizes and detains a plant, plant product or other regulated article may forego advising the owner of the plant, plant product or other regulated article of the reason for the seizure if, in the opinion of the inspector, it is urgently required to destroy the plant, plant product or other regulated article or the giving of the reason for the seizure is impractical.

28. An inspector who seizes and detains a plant, plant product or other regulated article under this Act, or any other person designated by the NPPO, may:

(a) store, treat, quarantine or dispose of the plant, plant product or other regulated article at the place where it was seized or move it to any other place for storage, treatment, quarantine or disposition,

(b) require its owner to store, treat, dispose of, export or move it to any other place.

29. (1) Where a person is convicted of an offence under this Act, the magistrate's court may, in addition to any penalty imposed, order that any thing used in the perpetration of the offence be forfeited to the Crown.

(2) Where the owner of a thing that is seized and detained under this Act consents to the forfeiture, it is thereby forfeited to the Crown and shall be disposed of as the Minister may direct.

30. (1) An inspector may confiscate and dispose of:

- (a) any plant, plant product or other regulated article that, after its entry into Saint Vincent and the Grenadines or after treatment, lies unclaimed for a prescribed time;
- (b) any thing that the inspector believes on reasonable grounds is a pest;

(2) An inspector who confiscates a plant, plant product or other regulated article or a pest shall, as soon as is practicable, advise the owner of the reason for its confiscation.

(3) An inspector who confiscates a plant, plant product or other regulated article or a pest may forego advising the owner of the plant, plant product or other regulated article or pest of the reason for the confiscation if the giving of the reason for the confiscation is impractical.

31. In proceedings for an offence under this Act, a certificate, report or other document of the Minister or an inspector, purporting to having been signed by the Minister or the inspector, is admissible in evidence without proof of the signature of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the matters contained in it.

32. (1) The costs for any action taken by an inspector under section 28 shall be borne by the owner, except where in exceptional cases the NPPO determines that the Crown shall bear the costs.

(2) Subject to section 33, the Crown shall bear no liability for loss resulting from the destruction or disposal of plants, plant products or other regulated articles carried out under the authority of this Act.

33. (1) The Minister may, out of money voted for that purpose by Parliament, order compensation to be paid in respect of :

- (a) the treatment of premises required under this Act; or
- (b) the prohibition or restriction on the use of premises imposed under this Act.

(2) No compensation is payable to a person who commits an offence under this Act and claims compensation in respect of any premises or thing by means of or in relation to which the offence was committed.

34. Proceedings taken under this Act shall not be made invalid by reason of the informality of any order or notice made or given except as against any person prejudiced by the informality.

35. A person who:

- (a) grows, possesses, sells, offers for sale, transports, or distributes in any manner any plants, plant products or other regulated articles knowing that they are affected by a quarantine pest;
- (b) assaults, resists, threatens, intimidates, or obstructs an inspector exercising lawful powers under this Act;
- (c) tampers with any samples taken under section 21;
- (d) fails to comply with an order or direction lawfully made or given under this Act;
- (e) imports any plants, plant products or other regulated articles at a port of entry that is not prescribed;
- (f) imports any plants, plant products or other regulated articles contrary to any requirements prescribed under this Act;
- (g) intentionally introduces, or causes the introduction or spread of a quarantine pest;
- (h) exports any plants, plant products or other regulated articles except in accordance with Part IV;
- (i) fails to safeguard the phytosanitary security of a consignment after the issue of a phytosanitary certificate under section 17 (1) (a);
- (j) fails to allow a search, inspection or taking of samples authorised under this Act;
- (k) breaks the seal on a sealed container containing plants, plant products or other regulated articles except in the presence of an inspector;
- (l) knowingly or recklessly provides information which is false for the purpose of obtaining any document under this Act;
- (m) alters, forges, defaces, or destroys any document issued under this Act; or
- (n) submits any written material for publication referring to the occurrence of a quarantine pest in Saint Vincent and the Grenadines without prior or simultaneous communication of the existence of the pest to the NPPO;

commits an offence.

36. A person who commits an offence under this Act is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding one year, or both fine and imprisonment.

37. (1) A person who is aggrieved by a decision or action of an inspector under this Act may lodge an appeal with the Minister within one month of the decision or action in respect of which the appeal is made.

(2) Upon an appeal being lodged, the Minister shall, where appropriate take all reasonable steps to stay the destruction, disposal, or treatment of plants, plant products or other regulated articles pending determination of the appeal, except where, in the opinion

of the Minister, a delay would create a significant risk of harm to plant resources or the environment.

(3) Cabinet shall appoint a Tribunal to hear the appeal which shall consist of one or more persons but not more than three persons.

(4) The Tribunal may regulate its own procedure.

(5) The decision of the Tribunal on an appeal is final and conclusive and is not subject to further appeal.

PART VII

MISCELLANEOUS

38. (1) The Minister may make regulations to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of subsection (1), the Minister may make regulations prescribing all or any of the following matters:

- (a) procedures to be followed by inspectors in exercise of their duties under this Act;
- (b) conditions for the import of any plants, plant products, or other regulated articles;
- (c) the circumstances under which phytosanitary requirements for import may be modified based on pest risk analysis;
- (d) the manner in which permits and certificates shall be issued under this Act, and their form and content;
- (e) procedures and guidelines for pre-clearance inspections;
- (f) the procedure by which an importer may apply for inspection to take place at any location other than the port of entry outside of regular working hours;
- (g) the manner in which containers must be sealed and marked if they are to be inspected at their final destination rather than at the port of entry;
- (h) the way in which plants, plant products and other regulated articles must be stored or transported in Saint Vincent and the Grenadines;
- (i) the procedures to be adopted for the treatment of imported plants, plant products and other regulated articles and the conveyances bringing them into Saint Vincent and the Grenadines;
- (j) the location, management, and functioning of any plant quarantine stations established under this Act;
- (k) the requirements for the control and care of regulated articles kept or maintained at plant quarantine stations;

- (l) the manner in which inspectors shall arrange for the destruction, removal, uprooting, or treatment of plants, plant products and other regulated articles within an area or location declared to be under quarantine;
- (m) the period within which it shall not be lawful to plant or re-plant any thing in all or part of an area declared to be under quarantine;
- (n) the manner in which any samples may be taken, marked and retained under this Act;
- (o) the process by which any area may be declared pest-free or an area of low pest prevalence;
- (p) conditions for the export of any plants, plant products or other regulated articles;
- (q) operating procedures for the inspection of plants, plant products or other regulated articles for purposes of export;
- (r) fees recoverable in respect of services provided under this Act;
- (s) criteria for the declaration of a phytosanitary emergency under section 23;
- (t) any other measures to be taken for the purpose of preventing the introduction or spread of pests.

39. (1) The Plant Protection Act is hereby repealed.

(2) Notwithstanding subsection (1), subsidiary legislation issued under or made by virtue of the Plant Protection Act shall remain in force, so far as they are not inconsistent with this Act, until they have been repealed by subsidiary legislation issued or made under the provisions of this Act, and shall be deemed for all purposes to have been made thereunder.

40. This Act shall bind the Crown.

Passed in the House of Assembly this day of 2005.

Clerk of the House of Assembly

OBJECTS AND REASONS

The object of this Bill is to implement improved mechanisms for plant protection in keeping with Saint Vincent and the Grenadines' obligations under the International Plant Protection Convention.

Hon. Girlyn Miguel
Minister of Agriculture, Forestry and
Fisheries