



REPUBLIC OF GHANA

**PLANTS AND FERTILIZER ACT, 2010**  
**(Act 803)**

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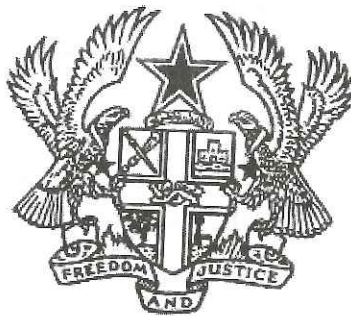
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Act 803



THE EIGHT HUNDRED AND THIRD  
**ACT**  
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED

**PLANTS AND FERTILIZER ACT, 2010**

AN ACT to provide for plant protection, seeds and fertilizer control and for related matters.

DATE OF ASSENT: *6th September, 2010.*

PASSED by Parliament and assented to by the President

**PART ONE—PLANTS PROTECTION**

*Importation and exportation of plants and plant materials*

**Purpose of Part One**

1. This Part provides for the efficient conduct of plant protection, to prevent the introduction and spread of plant pests, regulate the import and facilitate the export of plants and plant materials and provide for related matters.

**Minister to regulate importation of plants, plant materials and conveyance**

2. (1) A person shall not import a plant, plant material or conveyance without an import permit and a phytosanitary certificate.

(2) A phytosanitary certificate shall be issued by an authorised person of the exporting country.

(3) An application for an import permit shall be submitted to the Minister in the prescribed manner accompanied with the prescribed fee.

**Declaration of importation and examination by inspector**

3. (1) A person who imports a plant, plant material, plant pest, beneficial organism, soil or packaging material shall

- (a) do so through a designated port or post office, and
- (b) make a declaration of the import and submit the declaration together with the import permit and phytosanitary certificate to the Ghana Revenue Authority.

(2) The appropriate officer of the Ghana Revenue Authority or the designated post office shall immediately notify the Plant Quarantine Services Division of the Ministry of the arrival of plant, plant material or other items that may contain plant pests and shall not release the items for distribution before a plant quarantine officer authorises the distribution.

(3) On receipt of the notice, the Plant Quarantine Services Division shall direct an inspector to

- (a) examine the plant, plant material, plant pest, beneficial organism, soil or packaging material, and
- (b) issue a certificate for the examination.

**Importation to conform with International Plant Protection Convention**

4. (1) Any plant, plant material or other item that may contain plant pests shall on its importation into the country be subject to inspection in accordance with the procedures of the International Plant Protection Convention.

(2) The inspection shall be conducted by a designated officer at the point of entry or at the final destination if the container is sealed.

(3) Where the Minister requires that written notice be served on an importer as a result of the inspection and because the imported items

- (a) present a risk for the introduction and spread of plant pests;
- (b) do not satisfy the provisions of this Act;
- (c) are not accompanied with the requisite documents; or



(d) are imported from a prohibited location, as prescribed; the imported items shall be subject to

- (i) quarantine at a plant quarantine station or a designated location and an authorised officer shall be present for the duration that the Director considers necessary;
- (ii) appropriate treatment in order to remove the risk;
- (iii) re-exportation; or
- (iv) destruction by a means specified in the notice.

(4) The cost of and responsibility for any action taken under subsection (3) shall be borne by the importer.

(5) The Minister may prohibit or restrict the release or movement of imported plants and their progeny which have been placed in quarantine.

#### **Consignee in Ghana to give notice**

5. (1) A consignee who suspects that an import contains plant pests shall notify the Plant Quarantine Services Division of the Ministry in the region concerned in writing as soon as delivery is taken.

(2) The Minister may require a person involved in the importation, exportation or trading in plant material to register with the Plant Protection and Regulatory Services Directorate and to comply with the requirements that the Director may reasonably require.

#### *Export of plants and plant materials*

#### **Export of plants and plant materials**

6. (1) A person who intends to export a consignment of plants or plant materials to another country for which a phytosanitary certificate is required, shall request for safe pre-export examination or other inspection and test that may be required by the declared country of destination.

(2) The request for the pre-export examination shall be made to the Plant Quarantine Services Division.

(3) Each consignment shall be examined by a designated officer and if the designated officer is satisfied that the prescribed requirements have been met, the designated officer shall issue a phytosanitary certificate in accordance with this Act.

(4) The examination shall be conducted within six hours before the stated export time in the case of a perishable consignment and between six hours and three days before the stated export date in the case of a non-perishable consignment.

**Risk for exportation and spread of plant pest**

7. (1) Where the examination of the plant or plant materials to be exported reveals that they present a risk of the spread of plant pests or do not satisfy the requirements of the destination country, the plant or plant materials shall be subject to appropriate treatment followed by re-examination at a later date.

(2) A re-examination shall be carried out in the same manner as the initial examination and where the items do not meet the requirements, the designated officer shall refuse to issue a phytosanitary certificate.

(3) The cost of and responsibility for action taken under subsections (1) and (2) shall be borne by the exporter.

*Functions and powers of the Plant Protection and  
Regulatory Services Directorate and Designated Officers*

**Establishment of the Plant Protection and Regulatory Services Directorate**

8. There is established by this Act a Plant Protection Regulatory Services Directorate of the Ministry.

**Functions of the Plant Protection and Regulatory Services Directorate**

9. The Plant Protection and Regulatory Services Directorate shall
- (a) issue phytosanitary import permits for plants, plant products and other related articles;
  - (b) issue certificates for phytosanitary regulation of the import contracting party for the consignment of plants, plant products and other regulated articles;
  - (c) carry out surveillance of growing plants including areas under cultivation, fields, plantations, nurseries, gardens, green houses, laboratories, wild flora, plants and plant products in storage or in transit, particularly to report the occurrence, outbreak and spread of pests and the control of the pests;
  - (d) inspect consignments of plants and plant products and where appropriate other regulated articles to prevent the introduction and spread of pests;
  - (e) carry out the disinfestations or disinfection of consignments of plants and plant products and other regulated articles moving in international traffic and ensure that they meet phytosanitary requirements;

- (f) protect endangered areas and designate, maintain and carry out surveillance of pest-free areas and areas of low pest prevalence;
- (g) conduct pest risk analyses;
- (h) ensure that the phytosanitary security of consignments after certification as regards composition, substitution and re-infestation of plants and plant products intended for exports are satisfactory;
- (i) train and develop staff;
- (j) disseminate information within the country about quarantine requirements and procedures to prevent and control plant pests; and
- (k) co-operate with member countries of the International Plant Protection Convention.

#### **Powers of a designated officer**

10. For the purpose of safeguarding public health, agriculture and the environment in the country, a designated officer may at any reasonable time and on production of an identity card

- (a) enter any premises or conveyance where the designated officer has reasonable grounds to suspect that there may be plant pests and the officer may be accompanied by a police or customs officer as the situation determines;
- (b) inspect any plant or plant material under cultivation, in storage, or in transit, in order to report the existence of an outbreak and spread of plant pests;
- (c) inspect a consignment of plant and plant material imported into or destined for export out of the country;
- (d) stop and search without warrant any person, baggage, container or conveyance entering or moving within the country where a designated officer suspects that they may harbour a plant pest;
- (e) ensure the disinfestations or disinfection of consignments of plants, plant materials or other imported items or destined for export from the country and their containers, packing material, storage places or conveyance;
- (f) ensure the disposal of plant waste from aircraft and any ship that arrives in the country and from premises which process or wash imported plants and plant material;
- (g) stop the distribution, sale or use of any plant, plant product or regulated article and seize them for a stipulated period

- if the designated officer has reason to believe that it is being distributed, sold or used in contravention of this Act;
- (h) order that an imported plant, plant product or regulated article be destroyed or re-shipped to the country of origin if found or suspected to be infected with a regulated pest; and
  - (i) direct that a plant, plant product or scientific research be subject to terms and conditions that the Minister may consider appropriate.

*Containment and eradication of plant pests*

**Plant pests regulation or eradication**

11. The Minister may issue regulations to declare a plant pest to be a regulated pest if

- (a) it presents or is likely to present a threat to the production of or trade in plant and plant material or to the natural environment, and
- (b) it is either not known to be established in this country or is the subject for eradication or containment.

**Obligation to give information on a quarantine pest**

12. A person who

- (a) suspects or is aware of a quarantine pest under this Act, or
- (b) discovers a pest not known to be present in this country,

shall immediately notify the Division or the nearest office of the Ministry personally.

**Measures by Minister on an infested or infected quarantine pest**

13. (1) The Minister may
- (a) declare any land, area, or premises which is infested or infected, or suspected of being infested or infected with any quarantine pest to be under quarantine;
  - (b) prescribe measures for the treatment or disposal of plants, plant materials, plant pests, soil or packing material and the treatment of conveyances, whether or not they have been found to be infested or infected;
  - (c) prescribe the period within which it shall not be lawful to plant or replant the whole or part of an infested or infected land, area or premises under quarantine; or
  - (d) create or use domestic checkpoints to restrict movement of plants and plant materials within regions by establishing internal plant quarantine measures.

(2) Where a designated officer believes that a quarantine pest may be present on a farm or plant nursery, the designated officer may enter the farm or plant nursery and inspect any plant and plant material on the production of an identity card.

(3) Where the designated officer is satisfied that a quarantine pest is present at any place, the designated officer may cause a written notice to be served on the owner or occupier of the place.

(4) If the designated officer considers it appropriate, the notice will be served on the owner or occupier of an adjoining land or premises, ordering each of them, to take whatever measures the Minister considers appropriate to eradicate, contain or restrict the spread of the quarantine pest within a period specified in the notice.

#### **Disregard of notice by an owner or occupier**

14. If an owner or occupier either fails to comply with any of the terms of a notice issued under section 13 (3) and (4) or is unable to comply within the stipulated period, the Minister may authorise a plant quarantine officer or other qualified person to enter on the land or premises in question in order to carry out the requirements of the notice.

#### **Annual review of a plant quarantine pest**

15. (1) The Minister shall annually review the situation in respect of land placed under quarantine to determine whether

- (a) the relevant quarantine pest is no longer present; or
- (b) it is no longer appropriate for the quarantine to be maintained in respect of some or all of the land under quarantine.

(2) The Minister shall lift the quarantine by written notice served on all affected owners or occupiers of the land if the Minister finds that the pest is no longer present or the quarantine is no longer desirable.

#### **Compensation**

16. (1) The Minister may compensate an owner or person in possession of a plant or property destroyed or harmed by a designated officer in the performance of a function under this Act from moneys voted for the purpose.

(2) The compensation shall be estimated on the basis of the value of the plant or property destroyed or harmed at the time of the action.

(3) Where there is a disagreement as to the amount of compensation to be paid, the matter shall be referred to arbitration as provided for in the Alternative Dispute Resolution Act, 2010 (Act 798).

(4) The Minister is not obliged to compensate a person who has suffered loss as a result of action taken under this Act if the action was taken to remedy a situation caused wholly or partially by that person's negligence or failure to comply with lawful instructions.

*Plant Protection Advisory Council*

**Establishment of the Plant Protection Advisory Council**

17. There is established by this Act a Plant Protection Advisory Council.

**Composition of the Council**

18. (1) The Council consists of

- (a) the Minister or the representative of the Minister who is the chairperson,
- (b) the Director of the Plant Protection and Regulatory Services Directorate,
- (c) one representative of the Universities in Ghana with specialisation in plant protection,
- (d) one representative of the Council for Scientific and Industrial Research with specialisation in plant protection,
- (e) one representative of the Environmental Protection Agency not below the rank of director,
- (f) one representative of Ghanaian exporters of plants and plant products;
- (g) one representative of Ghanaian importers of plants and plant products,
- (h) one representative of the Ministry of Trade and Industry, and
- (i) one representative of the Narcotics Control Board.

(2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

**Tenure of office of members**

19. (1) A member of the Council shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Sub-section (1) does not apply to section 18 (1) (a) and (b).

(3) A member of the Council may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Council who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member of the Council.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Council is for a sufficient reason unable to act as a member, the Minister shall determine whether the member's inability to act would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4) or section 23 (2),

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

#### **Meetings of the Council**

20. (1) The Council shall meet at least once every three months for the despatch of business at the times and places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one third of the membership of the Council convene an extraordinary meeting of the Council at a place and time determined by the chairperson.

(3) The quorum at a meeting of the Council is five members of the Council or a greater number determined by the Council in respect of an important matter.

(4) The chairperson shall preside at meetings of the Council and in the absence of the chairperson, a member of the Council elected by the members present from among their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but a co-opted person shall not vote on a matter for decision at the meeting.

#### **Secretary to the Council**

21. The Director of Plant Protection and Regulatory Services Directorate shall serve as the secretary to the Council.

#### **Functions of the Council**

22. The Council shall

(a) develop and promote a national plant protection system;

(b) co-ordinate public and private sector participation in plant protection related matters;

- (c) provide assistance in the preparation of Regulations, orders and notices under this Act;
- (d) provide assistance in the implementation of Regulations, orders and notices under this Act;
- (e) examine complaints and objections lodged in respect of decisions and measures taken;
- (f) keep records of its deliberations and attendance at its meetings; and
- (g) be responsible for any other matters concerned with plant protection.

**Disclosure of interest**

23. (1) A member of the Council who has an interest in a matter for consideration

- (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) shall not participate in the deliberations of the Council in respect of that matter.

(2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and

- (a) fails to disclose that interest, or
- (b) participates in the deliberations of the matter.

**Establishment of Committees**

24. (1) The Council may establish committees consisting of members of the Council or non-members or both to perform a function.

(2) Without limiting subsection (1), the Council shall have a Complaints Settlement Committee.

(3) A committee of the Council may be chaired by a member of the Council.

(4) Section 23 applies to members of committees of the Council.

**Allowances**

25. Members of the Council and Committees shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

**Accounts and audit**

26. (1) The Directorate shall keep books of account and proper records in the form approved by the Auditor-General.



(2) The Directorate shall submit its accounts to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

*Procedures for handling complaints*

**Complaints**

27. (1) An owner or occupier of premises or an operator of a carrier aggrieved by a decision of the designated officer to destroy, dispose of or treat plant material, beneficial organisms, soil or any plant or plant products being exported may appeal to the Minister.

(2) When an appeal is filed, the Minister shall take reasonable steps to stay the intended action to destroy, dispose of or treat the plant or plant products being exported pending the determination of the appeal except where in the opinion of the Minister delay will create a significant risk to the environment in the country.

(3) On receipt of the appeal, the Minister shall refer the complaint to the Complaints Settlement Committee established under section 24 (2)

(4) Where the complainant is dissatisfied with the decision of the Minister, the complainant may seek remedy in court.

*Offences and penalties*

**Offences**

28. (1) A person commits an offence if that person either personally or through an agent

- (a) imports or exports a plant or plant product or regulated article without an import permit and phytosanitary certificate;
- (b) assaults, resists, threatens or wilfully obstructs an authorised officer exercising powers under this Part;
- (c) wilfully fails to comply with an order made or direction given under this Act;
- (d) wilfully fails to allow a search or inspection authorised under this Part;
- (e) knowingly or recklessly provides information which is false to obtain a permit or phytosanitary certificate under this Part;
- (f) alters, forges, defaces or destroys documents issued under this Act;

- (g) imports a prohibited item, grows, possesses, sells, offers for sale, transports or distributes any plant, plant product or regulated articles knowing them to be imported into the country contrary to this Part;
  - (h) imports any plant, plant product or regulated articles at a point of entry not specified by the Service; or
  - (i) imports any plant, plant product or regulated articles contrary to any requirement prescribed under this Part.
- (2) A person who commits an offence under subsection (1) (e) may in addition to the conviction be subject to suspension or revocation of the permit by the Minister.

**Penalties**

29. Where the offender under section 28 is

- (a) an importer, that person is liable on summary conviction for the first time, to a fine of not less than one hundred penalty units or to a term of imprisonment of not more than six months and on subsequent conviction to a fine of not less than two hundred penalty units or a term of imprisonment of not more than one year or to both,
- (b) an exporter, that person is liable on summary conviction for the first time to a fine of not less than one hundred penalty units or to a term of imprisonment of not more than six months and on subsequent conviction to a fine of not less than two hundred penalty units or a term of imprisonment of not more than one year or to both.
- (c) a person other than the importer or exporter, that person is liable on summary conviction for the first time to a fine of not less than one hundred penalty units or a term of imprisonment of not more than six months and on subsequent conviction to a fine of not less than two hundred penalty units or a term of imprisonment of not more than one year or to both.

**PART TWO—SEEDS**

*Registration of seed importers and exporters*

**Purpose of Part Two**

30. The purpose of this Part is to regulate and monitor the exportation, importation and commercial transaction in seeds and related matters.

**Registration of seed importers, exporters, growers and cleaners**

31. (1) A person shall not import, export, produce, clean or sell any seed in commercial quantities unless that person is registered.
- (2) An application for registration shall be made to the Minister.
- (3) The application shall be
- (a) in a form determined by the Minister, and
  - (b) accompanied with a fee determined by the Minister in consultation with the Minister responsible for Finance.

**Processing of application**

32. (1) The Minister shall
- (a) acknowledge receipt of the application for registration, and
  - (b) within a period of not more than thirty days after receipt of the application, inform the applicant in writing of the decision.
- (2) The Minister may refuse to grant an application where there are compelling reasons founded on technical or economic grounds, national security, public safety or other reasonable justification for doing so.
- (3) Where the Minister refuses to grant an application, the reason shall be communicated to the applicant within fourteen days after the decision.
- (4) A person whose application for registration is refused may apply to the Minister for a review of the decision and the Minister shall determine the review within fourteen days after receipt of the application.
- (5) A person aggrieved with a decision of the Minister may apply to court.

**Conditions of registration**

33. Registration granted by the Minister under this Part is subject to the conditions specified in the certificate of registration.

**Non-transferability of registration**

34. Registration is not transferable.

**Renewal of registration**

35. (1) Registration is granted for a period of two years in each instance and may be renewed under terms specified by the Minister.
- (2) A person who desires to renew the registration shall submit an application for renewal to the Minister not later than three months before the registration expires except that the Minister may at a request by the applicant extend the renewal deadline.

(3) The procedure for the renewal of the registration is the same as that for the grant of the original registration except that the fees for renewal shall be lower than that payable for an original registration.

(4) A person who fails to renew the registration as required, or whose application for renewal is rejected by the Minister shall cease to deal in seeds.

**Power to suspend, cancel or modify registration**

36. (1) The Minister may suspend, cancel or modify a registration if there is a good reason for the suspension, cancellation or modification.

(2) The Minister shall not suspend, cancel or modify a registration unless the Minister has given the holder of the registration

(a) at least thirty working days' written notice in the case of suspension, or

(b) at least thirty working days' notice.

(3) The notice shall state

(a) that the Minister proposes to suspend, cancel or modify the registration, and

(b) the reason for the suspension, cancellation or modification of the registration.

(4) The notice shall be given

(a) by publication in a manner that the Minister considers appropriate to bring the suspension, cancellation or modification to the attention of a person likely to be affected by the notice, and

(b) by sending a copy of the notice to the affected person.

(5) On receipt of the notice, the affected person may make a representation to the Minister within fourteen days.

(6) The Minister shall consider a representation or objection made within fourteen days before the suspension, cancellation or modification of the registration is made.

**Seeds register**

37. For the purpose of section 30, the Ministry shall keep a Seeds Register in which shall be recorded

(a) seeds and crop varieties produced in this country or imported to the country;

(b) the names, addresses, principal places of business and other particulars of entities registering as seed dealers; and

- (c) other information that the Minister on the advice of the Council considers relevant and necessary for seed production and marketing.

*Production and marketing of seeds*

**Seed production and marketing**

38. (1) Subject to subsection (2), a person who is registered to produce or market seeds of a particular class may only market or produce seeds of that class.

(2) Subject to the Exports and Imports Act 1995, (Act 503) a person shall not produce, condition or market any seed unless

- (a) the seed is of a registered variety;
- (b) it is of a standard prescribed by this Act or its Regulations;
- (c) it is multiplied in a seed multiplication farm, conditioned in a seed conditioning plant or tested in a registered laboratory; and
- (d) it is packaged and labelled as prescribed by this Act or its Regulations.

**Importation and exportation of seeds**

39. (1) A person who intends to import seeds of any crop

- (a) for the purpose of seed production for experimental or research purposes, or
- (b) for direct and commercial distribution to farmers for production

shall submit samples of the seeds to the Director for testing by an accredited research institution or entity.

(2) The Director shall submit the report of the test to the Minister who shall approve or prohibit the importation of the seeds on the basis of the recommendations contained in the report.

(3) On approval of the importation of the seeds, the Minister shall authorise the importer to produce the seeds for commercial production and distribution.

(4) Seeds produced locally under subsection (1) may be exported.

**Sampling and testing**

40. A designated officer of the Ministry or a person authorised or accredited by the Ministry shall sample and test seeds in accordance with the International Seed Testing Association rules.

**Tagging and identification of locally produced seeds**

41. Locally produced seeds shall be tagged as follows for the purposes of identification:

- (a) white for basic seeds;
- (b) blue for first generation certified seeds; and
- (c) red for second generation certified seeds and hybrid seeds.

**Labelling of seed packages**

42. Seeds produced or marketed in this country shall be packed in containers which shall be securely closed and labelled with an approved label which states the

- (a) species;
- (b) variety name;
- (c) lot number and seed class;
- (d) minimum moisture content;
- (e) germination rate in percentage;
- (f) date of analysis;
- (g) purity percentage;
- (h) weight;
- (i) year of production;
- (j) name and address of the grower;
- (k) code of the analyst;
- (l) warning text or symbol where the seed is treated; and
- (m) variety registration.

**Variety registration**

43. (1) The Ministry shall prepare an official list of varieties of seeds which can be registered and marketed in the country.

(2) Without limiting the effect of subsection (1) a new variety shall

- (a) only be introduced into this country after approval has been obtained from the Ministry;
- (b) be entered in the national variety list when it conforms to distinctness, uniformity, stability and value for cultivation subject to Regulations on variety releases in this country; and
- (c) be registered as a result of regional agreements on variety release and registration.

(3) An accredited public organisation shall conduct tests to establish distinctness, uniformity and suitability or value for cultivation

or use in accordance with the guidelines established by the National Technical and Variety Release Committee.

(4) The requirements and procedures for variety testing, release and registration of seeds shall be prescribed by Regulations.

*Quality control of seeds*

**Seed quality control**

44. (1) Seed species and varieties multiplied and certified under this Act shall be classified into

- (a) parental material,
- (b) pre-basic seed or breeder,
- (c) basic seed or foundation, and
- (d) certified seed.

(2) The Minister on the advice of the National Seed Council shall

- (a) by Regulation prescribe the denominations which shall be used for vegetative materials; and
- (b) establish which crops will be eligible for certification.

(3) Seeds shall only be certified if they are subject to field inspection, sampling and laboratory testing by an accredited person authorised by the Plant Protection and Regulatory Services Directorate to verify compliance with standards.

(4) The Minister shall determine the requirements and procedures for accreditation on the advice of the National Seed Council.

(5) Individuals, third parties, seed laboratories or seed entities shall be allowed to inspect fields, sample and test seeds and deal with the issuance of labels subject to Regulations made under this Act.

(6) The Minister shall prescribe the requirements and standards for classes of seeds by Regulations on the advice of the National Seed Council and in accordance with regional or international agreements.

(7) Certified seeds shall be packed in containers which shall be securely closed and bear a certification label which states the

- (a) name of species;
- (b) variety of species;
- (c) lot number and seed class;
- (d) minimum moisture content;
- (e) minimum germination percentage;

- (f) minimum purity;
- (g) weight;
- (h) year and month of harvesting;
- (i) name of certification body; and
- (j) warning test or symbol when the seeds are treated.

(8) Certification labels shall be in accordance with the following standards:

- (a) white with diagonal violet stripes for parent materials and pre-basic seeds;
- (b) white for basic seeds;
- (c) blue for first generation certified seeds; and
- (d) red for second generation certified seeds and F1 hybrid seeds.

(9) A person shall correctly label seeds produced, imported, advertised and marketed in this country that do not fall under the species for which certification is required.

(10) Where a seed does not require certification, the seed shall only be subject to sampling and laboratory test compliance with the relevant information on the label.

### **Seed inspection**

45. (1) The Minister may designate a qualified person to act as an inspector to inspect, sample, test and analyse seeds and enforce the provisions of this Act.

(2) An inspector shall be given an identity card or a document as a proof of that person's designation and the identity card shall be produced on entering any place in the exercise of the inspector's powers under this Act.

(3) A person, while holding the office of a seed inspector, shall not engage in any business connected with the production, processing, sale or importation of seeds or directly in any trade or business connected with dealing in seeds.

(4) For the purpose of inspection the inspector on production of an identity card may

- (a) enter any building, yard or warehouse;
- (b) enter premises, storage or transport facilities where there are reasonable grounds to believe that there are seeds to which this Act applies and a field used for the production of seeds for which certification is required;



- (c) inspect seeds found in a place and take samples of the seeds for analysis;
  - (d) require a person to produce documents on seeds to which this Act applies for examination or to obtain copies or extracts of the documents; or
  - (e) at any reasonable time, inspect and make copies of any records required to be kept in accordance with this Act.
- (5) An inspector shall take seeds or a sample of seeds and send them to an authorised or accredited laboratory for analysis or examination where necessary.
- (6) An inspector may stop the sale of any seed where the inspector has reasonable cause to believe that the seed does not meet the required standard.
- (7) Where a sale of seeds has been stopped by an inspector, the inspector shall immediately issue a notice to that effect to the owner of the seeds or the person selling the seeds.
- (8) A seed inspector may confiscate a seed where the seed does not meet the required standard.
- (9) Where proceedings have been instituted in respect of an offence, a seed or a seed package may be detained until proceedings are finally concluded.
- (10) Where a person is convicted of an offence in relation to seeds the seed which is the subject of the offence shall be confiscated to the State.
- (11) Seeds which are confiscated shall be disposed of in accordance with the directives of the Minister.
- (12) An aggrieved person may lodge a complaint with the Ministry in case of misconduct by an inspector within fourteen days, including the misuse of the inspector's powers under subsections (4) and (6) of this section without a valid reason.

**Seed testing**

46. (1) There shall be designated by the Minister on the advice of the Seed Council a seed laboratory as the official seed testing laboratory.
- (2) The official seed testing laboratory has responsibility to
- (a) ensure that seed testing is carried out in accordance with the International Seed Testing Association rules;

- (b) obtain and maintain membership of the International Seed Testing Association to enhance seed import and export opportunities;
- (c) ensure quality assurance in the operation and maintenance of accredited laboratories within and outside the Ghana Seed Inspection Division; and
- (d) establish the criteria, conditions and procedures for the implementation of the authorisation or accreditation of other public or private sector seed laboratories in the country.

**Pre-basic seed**

47. (1) The Ministry shall ensure the existence of a pre-basic seed for the generation of G1, G2 or G3 seed between parent material and a basic seed.

(2) A pre-basic seed is produced directly by the maintainer of the variety or an authorised agent.

*National Seed Council*

**Establishment of National Seed Council**

48. There is established by this Act a National Seed Council.

**Functions of the Council**

49. The functions of the Council are to

- (a) formulate policies for the development, production, inspection, sampling, analysis, conditioning and marketing of seed;
- (b) monitor the supply of seeds to ensure seed security in the country at all times;
- (c) develop procedures for the registration of cultivars;
- (d) prescribe standards for seeds and procedures for the certification of seeds;
- (e) publish annually in the Commercial and Industrial Bulletin, a list of varieties of crops for which seed marketing is permitted in the country;
- (f) recommend to the Minister fees for the certification and testing of seeds;
- (g) prescribe procedures for accreditation;
- (h) determine a class of non-certified seeds which may be used in case of acute seed shortages; and
- (i) perform other functions that are specified under this Act that are assigned by the Minister.

**Composition of the Council**

**50.** (1) The Council consists of

- (a) the Minister or the representative of the Minister who is the chairperson,
- (b) the Director-General of the Council for Scientific and Industrial Research or a representative of the Director-General not below the rank of a Director,
- (c) the Director, Crop Services Directorate of the Ministry,
- (d) the Director, Plant Protection and Regulatory Services Directorate of the Ministry,
- (g) one representative of the Seed Growers Association of Ghana,
- (k) one representative of the national farmers association, and
- (l) one representative of the Biotechnology and Nuclear Agricultural Research Institute; and
- (m) two other persons nominated by the President one of whom is a woman.

(2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

**Tenure of office of members**

**51.** (1) A member of the Council shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) A member of the Council may at any time resign from office in writing addressed to the President through the Minister.

(3) A member of the Council who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member of the Council.

(4) The President may by letter addressed to a member revoke the appointment of that member.

(5) Where a member of the Council is for a sufficient reason unable to act as a member, the Minister shall determine whether the member's inability to act would result in the declaration of a vacancy.

(6) Where there is a vacancy

- (a) under subsection (2) or (3) or section 53 (2);
- (b) as a result of a declaration under subsection (5), or
- (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

**Meetings of the Council**

52. (1) The Council shall meet at least once every three months for the despatch of business at the times and places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one third of the membership of the Council convene an extraordinary meeting of the Council at a place and time determined by the chairperson.

(3) The quorum at a meeting of the Council shall be five members or a greater number determined by the Council in respect of an important matter.

(4) The chairperson shall preside at meetings of the Council and in the absence of the chairperson, a member of the Council elected by the members present from among their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but a co-opted person shall not vote on a matter for decision at the meeting.

**Disclosure of interest**

53. (1) A member of the Council who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Council in respect of that matter.

(2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the matter.

**Committees of the Council**

54. (1) The Council may establish committees consisting of members of the Council or non-members or both to perform a function except that a committee consisting entirely of non-members may only advise the Council.

(2) Section 53 applies to members of the Committees of the Council and persons may be co-opted to serve on those Committees.

**Allowances**

55. Members of the Council and members of a sub-committee of the Council shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

**Technical and Variety Release Committee**

56. There is established the Technical and Variety Release Committee of the Council whose functions are to

- (a) advise the Council on
  - (i) the procedures for the registration of cultivars;
  - (ii) the prescribed standards for seeds and procedures for the certification of seeds;
  - (iii) the publication annually in the Commercial and Industrial Bulletin of a list of varieties of crops grown in the country; and
  - (iv) the fees for the certification and testing of seeds;
- (b) recommend for the approval of the Council, crop varieties to be released or withdrawn from the register as well as crop species to be included;
- (c) recommend varieties for withdrawal where the maintainer does not have that seed variety available or the seed does not represent its original variety;
- (d) create and update the National Variety Register; and
- (e) any other technical matters requested by the Council.

**Composition of the Technical and Variety Release Committee**

57. The Technical and Variety Release Committee consists of;

- (a) the Director of the Directorate of Crop Services of the Ministry as the chairperson;
- (b) the Director of the Crops Research Institute;
- (c) the Director, Directorate of Agricultural Extension Services of the Ministry;
- (d) the Head of the Ghana Seed Inspection Division of the Ministry;
- (e) the Director of the Savannah Agricultural Research Institute;
- (f) the Director of the Directorate of Women in Agricultural Development of the Ministry;
- (g) one representative of one of the Faculties of Agriculture in one of the universities in Ghana nominated on a rotational basis for a term of three years at a time by the universities;

- (h) one representative from the private sector who is engaged in the seed industry;
- (i) the Executive Director of the Grains and Legumes Development Board;
- (j) two representatives of farmers in the country;
- (k) the Director of the Plant Protection and Regulatory Service Directorate of the Ministry;
- (l) the Director of the Plant Genetics Resources Institute;
- (m) one representative of the Biotechnology and Nuclear Agricultural Research Institute; and
- (n) any other person related to seed activity recommended by the Council and approved by the Minister.

**Meetings of the Technical and Variety Release Committee**

58. (1) The Committee shall meet as and when necessary for the despatch of business at the times and places determined by the chairperson.

(2) The chairperson shall request for a meeting in writing of not less than one third of the Membership of the Committee at a place and time determined by the chairperson.

(3) The quorum at a meeting of the Committee is five members or a greater number determined by the Council in respect of an important matter.

(4) The chairperson shall preside at meetings of the Committee and in the absences of the chairperson, a member present from among their number shall preside.

(5) Matters before the Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Committee may co-opt a person to attend a Committee meeting but a co-opted person shall not vote on a matter for decision at the meeting.

**National Variety Release and Registration Committee**

59. Without limiting section 54, there is established the National Variety Release and Registration Committee which consists of

- (a) the Director of the Directorate of Crop Services of the Ministry as the chairperson;
- (b) the Director of the Crops Research Institute;
- (c) the Director, Directorate of Agricultural Extension Services of the Ministry;

- (d) the Head of the Ghana Seed Inspection Division of the Ministry;
- (e) the Director of the Savannah Agricultural Research Institute;
- (f) the Director of the Directorate of Women in Agricultural Development the Ministry;
- (g) one representative of one of the Faculties of Agriculture in one of the universities in Ghana nominated on a rotational basis for a term of three years at a time by the universities,
- (h) two representatives from the private sector who are engaged in the seed industry;
- (i) one representative of the Cocoa Research Institute of Ghana,
- (j) one representative of the Grains and Legumes Development Board;
- (k) three representatives of farmers in the country;
- (l) the Director, Forest Research Institute of Ghana;
- (m) one Plant Breeder each from the Crops Research Institute and Savannah; and
- (n) any other person related to the seed activity recommended by the Council.

#### **Functions of the National Variety Release and Registration Committee**

60. The functions of the National Variety Released and Registration Committee are to

- (a) recommend for the approval of the Council, crop varieties to be released or withdrawn from the register, as well as crop species to be included;
- (b) recommend varieties for withdrawal where the maintainer does not have that seed variety available or the seed does not represent the original variety; and
- (c) create and update the national variety list.

#### **Secretariat**

61. The Council shall have a Secretariat at the Ministry which shall provide secretariat services that the Council may require for the effective performance of its functions.

*Miscellaneous provisions*

**Funds of the Council**

62. The funds of the Council include
- (a) moneys provided by Parliament,
  - (b) donations, grants and gifts that do not compromise the interest of the Council, and
  - (c) any other moneys that are approved by the Minister responsible for Finance.

**Accounts and audit**

63. (1) The Council shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.
- (2) The Council shall submit the accounts of the Council to the Auditor-General within three months after the end of the financial year.
- (3) The Auditor-General shall not later than three months after receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.
- (4) The financial year of the Council shall be the same as the financial year of the Government.

**Annual and other reports**

64. (1) The Council shall within one month after the receipt of the audit report submit an annual report to the Minister covering the activities and the operations of the Council for the year to which the report relates.
- (2) The annual report shall include the report of the Auditor-General.
- (3) The Minister shall, within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.
- (4) The Council shall also submit to the Minister any other report which the Minister may require in writing.

**Offences**

65. (1) A person commits an offence under this Act if that person
- (a) being the owner or a person entrusted with the custody of any seed lot
    - (i) refuses to allow an inspector to take a sample of seeds from the lot which the inspector is authorised under this Act to take;



- (ii) otherwise delays or obstructs an inspector in the performance of the inspector's functions;
  - (iii) wilfully makes a false or misleading statement either verbally or in writing to an inspector while discharging duties under this Act;
- (b) fraudulently tampers with any seed sample that is taken or submitted for analysis;
  - (c) publishes or distributes any false advertisement on seeds;
  - (d) without lawful authority, alters or defaces a certificate, record label or other document, specified in this Act;
  - (e) sells, offers or exposes for sale or distributes any seed without an appropriate label;
  - (f) imports restricted or prohibited seeds; or
  - (g) imports, advertises or markets seeds without a label.
- (2) An inspector or seed analyst who without good reason fails to perform a function required to be performed under this Act or gives false information in the performance of that function is liable to disciplinary action by the Ministry in addition to any other penalty which that person may be liable to under this Part.

**Penalties**

66. (1) A person who commits an offence is liable on summary conviction to a fine of not less than two hundred penalty units or a term of imprisonment of not more than two years or to both.

(2) A person whose seeds are confiscated shall pay for the cost of disposal, failing which that person commits an offence and is liable on summary conviction to the fine in subsection (1).

(3) The Ministry may in the case of a persistent offender, order in addition to penalties provided for under this section, the withdrawal of any permit or certificate of registration issued to the offender under this Act.

**PART THREE—FERTILIZER CONTROL**

*Registration of fertilizer importers*

**Purpose of Part Three**

67. The purpose of Part Three is to provide for the control and regulation of fertilizers.

**Registration of importers, manufacturers and distributors**

68. (1) A person shall not import, manufacture or distribute fertilizers in commercial quantities unless that person is registered.

(2) An application for registration shall be made to the Minister.

(3) The application shall be in a form determined by the Minister and be accompanied with a fee that the Minister on the advice of the National Fertilizer Council shall determine.

**Processing of application**

69. (1) The Minister shall

- (a) acknowledge receipt of the application for registration, and
- (b) within a specified period of not more than sixty days after receipt of the application, inform the applicant in writing of the decision.

(2) The Minister shall register the applicant when satisfied that the fertilizer in respect of which the application is made is suitable for this country.

(3) The Minister may refuse to grant an application where there are compelling reasons founded on technical or economic grounds, national security, public safety or other reasonable justification for doing so.

(4) Where the Minister refuses to grant an application, the reason shall be communicated to the applicant within fourteen days after the decision.

(5) A person whose application for registration is refused may apply to the Minister for a review of the decision.

**Conditions of registration**

70. Registration granted by the Minister under this Act shall be subject to the conditions specified in the registration.

**Non-transferability of registration**

71. Registration granted is not transferable.

**Renewal of registration**

72. (1) Registration is granted

- (a) in the case of manufacturers, for five years in the first instance and is renewable for two years at any one time,
- (b) in the case of importers and distributors, for two years in the first instance and may be renewed under terms specified by the Minister.

(2) A person who desires to renew the registration shall submit an application for renewal to the Minister not later than three months before the registration expires except that Minister may extend the time for the renewal.

(3) The procedure for the renewal of the registration is the same as that for the grant of the original registration except that the fees for renewal shall be lower than that payable for an original registration.

(4) A person who fails to renew the registration as required, or whose application for renewal is rejected by the Minister shall cease to deal in fertilizers.

**Power to suspend, cancel or modify registration**

73. (1) The Minister may by notice in writing suspend, cancel or modify a registration.

(2) The Minister shall not suspend, cancel or modify a registration unless the Minister has given the holder of the registration

(a) at least thirty working days' written notice in the case of suspension, or

(b) at least sixty days' written notice in the case of cancellation or modification.

(3) The notice shall state

(a) that the Minister proposes to suspend, cancel or modify the registration, and

(b) the reason for the suspension, cancellation or modification of the registration.

(4) The notice shall be given

(a) by publication in the *Gazette* or in a manner that the Minister considers appropriate to bring the suspension, cancellation or modification to the attention of a person likely to be affected by the notice, and

(b) by sending a copy of the notice to the affected person.

(5) On receipt of the notice, the affected person may make a representation to the Minister.

(6) The Minister shall consider a representation or objection made to it before the suspension, cancellation or modification is made.

**Proprietary information**

74. (1) The Ministry shall treat, as proprietary, any information supplied by an applicant for a certificate of registration.

(2) For the purposes of this section proprietary information includes

- (a) tonnage reports,
- (b) data from testing program for slowly released products,
- (c) analytical methods for evaluating a slowly released product, and
- (d) other information considered exclusive to the applicant.

**Publication of information**

75. The Ministry shall publish annually in a form that it considers appropriate

- (a) information concerning the distribution of fertilizers in Ghana by tonnage in regions and districts, and
- (b) results of analyses based on official samples of fertilizers taken by inspectors as compared with the guarantee analysis.

*Manufacturing and distribution of fertilizers*

**Fertilizer Register**

76. The Ministry shall keep a Fertilizer Register in which shall be recorded

- (a) types of fertilizer manufactured in this country or imported into this country;
- (b) the names, addresses, principal places of business and other particulars of entities registered as dealers in fertilizers; and
- (c) other information that the Minister on the advice of the Council considers relevant and necessary for fertilizer importation, manufacture or distribution.

**Fertilizer manufacturing and distribution**

77. (1) Subject to subsection (2), a person who is registered to manufacture or distribute a fertilizer of a particular type may only manufacture or distribute a fertilizer of that type.

(2) Subject to the Exports and Imports Act, 1995 (Act 503) a person shall not manufacture, condition or distribute any fertilizer unless

- (a) the fertilizer is registered;
- (b) it is of a standard prescribed by this Part or Regulations;
- (c) it is manufactured in a registered facility and tested in a registered laboratory; or

(d) it is packaged and labelled as prescribed by this Act or Regulations.

(3) A person registered under this Act shall inform the Division in writing of additional distribution points during the subsistence of the registration.

#### **Importation and exportation of a fertilizer**

78. (1) A person who is not registered may import a fertilizer of any type for local use if at the time of importation of the fertilizer, that person makes a declaration in triplicate to the Commissioner-General or a person authorised by the Commissioner-General stating that

- (a) the fertilizer is for personal use;
- (b) the fertilizer is to be used for experimental purposes only; or
- (c) the disposal of the fertilizer is subject to the prior approval of the Minister.

(2) The Commissioner-General shall forward two copies of the declaration to the Minister.

(3) A fertilizer manufactured locally may be exported.

#### *Packaging and labelling of a fertilizer*

#### **Packages and labels**

79. (1) The Minister may by legislative instrument prescribe the containers, labels and manner of packaging of fertilizers in the country.

(2) The maximum permissible limits of heavy metals in a fertilizer shall be as determined by the Ministry and published in the *Gazette*.

(3) A person who intends to distribute a fertilizer shall have affixed on the containers a label setting forth in clearly legible and conspicuous form the following information in the English language:

- (a) type
- (b) grade, where primary nutrients are claimed;
- (c) guaranteed analysis stating the percentage in terms of content of
  - (i) ammoniacal nitrogen,
  - (ii) nitrate nitrogen,
  - (iii) water-insoluble nitrogen,
  - (iv) urea nitrogen,
  - (v) other recognised and determinable form of Nitrogen,
  - (vi) available phosphate ( $P_2O_5$ ),

- (vii) soluble potassium ( $K_2O$ ), and
  - (viii) other nutrients on elemental basis,
  - (d) net weight,
  - (e) sources of nutrients, and
  - (f) name and address of the registrant.
- (4) If claims are made on the label other than nutrient guarantees, the Regulatory Division may require that the registered person provides
- (a) a testing programme conducted by an accredited research institution, and
  - (b) a laboratory procedure acceptable to the Fertilizer Regulatory Division for evaluating these claims.
- (5) For packaged products, the information under subsection (3) shall either
- (a) appear on the front or back of the package, or
  - (b) be printed on a tag and attached to the package.
- (6) For bulk products, the same information in written or printed form shall accompany delivery and be supplied to the purchaser at the time of delivery.

*Inspection and analyses*

**Inspection**

**80.** (1) The Ministry shall through the appropriate unit sample, inspect and analyse fertilizers distributed in the country to ensure that distributors of fertilizers comply with the provisions of this Act.

(2) For purposes of subsection (1), the regulatory division may appoint inspectors to inspect the storage facilities, sales premises, labels of fertilizers and the licence of dealers.

(3) An inspector may

- (a) at reasonable times enter any premises in order to have access to a fertilizer and fertilizer records to ensure compliance with the provisions of this Act,
- (b) confiscate a fertilizer which does not comply with the provisions of this Act, and
- (c) produce an official identification if required to do so by the person in charge of the premises.

(4) A person in charge of any premises where a fertilizer is distributed shall

- (a) give an inspector reasonable assistance to enable the inspector to perform requisite functions; and

- (b) furnish the inspector with any information the inspector may reasonably require with respect to the administration of this Act and Regulations made under this Act.
- (5) A person who sells, offers for sale or distributes
- (a) any fertilizer with plant nutrient deficiencies or without a licence;
  - (b) a misbranded fertilizer;
  - (c) an adulterated fertilizer
  - (d) a nutrient deficiency fertilizer;
  - (e) a fertilizer containing heavy metals above the maximum permissible limits; or
  - (f) any other prohibited product under this Act,
- commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment not exceeding two years or both.
- (6) In the case of a continuing offence the person convicted is liable to a further fine of ten penalty units for each day during which the offence continues.
- (7) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

#### **Methods of inspection, sampling and analysis**

81. (1) The methods of inspection, sampling, sample preparation and analysis shall be in accordance with the Ghana Fertilizer Inspection Manual and the Ghana Fertilizer Analytical Manual and in a case not covered by these Manuals, the Minister may adopt an appropriate method from other sources.

(2) An official analysis will be performed on official samples by a laboratory authorised by the Minister.

(3) The Regulatory Division, in determining for administrative purposes whether any fertilizer contains less plant nutrients than stated on the label, shall be guided solely by the official sample taken under subsection (2).

(4) The results of official analyses of fertilizers and portions of official samples shall be distributed by the Regulatory Division to appropriate persons, where necessary.

(5) Official samples determined to be deficient in plant nutrients shall be retained for a minimum of one hundred and eighty days after the issue of the deficiency report.

(6) On the analysis of an official sample of a fertilizer, the Division shall issue to the applicant within sixty days after the date the official samples were taken, a report showing the results of the samples that were found to be deficient.

**Plant nutrient deficiency**

82. (1) If the analysis shows that a fertilizer is deficient because of non-uniformity or because one or more of its guaranteed plant nutrients is beyond the investigational allowances or if the actual nutrient of the fertilizer is below the established level determined by the Ministry, the value of the deficiencies shall be assessed by utilizing the penalty system determined by the Ministry as provided for by Regulations.

(2) The plant nutrient value will be calculated on the basis of the price documented in the inspection report for the inspected lot.

(3) The distributor shall pay a penalty assessed under this section to the concerned consumer within two months after the date of notice from the division to the registrant.

(4) If the consumer cannot be found, the amount paid shall be deposited in the Fund.

(5) A person may appeal to a court of competent jurisdiction in respect of penalty payments within fourteen days after the date of imposition.

**Inspection fees**

83. (1) A person shall pay a one-off inspection fee per tonne as determined by the Minister for every tonne of fertilizer the person distributes in the country.

(2) A person who distributes a fertilizer in Ghana shall submit on forms provided by the Ministry a quarterly statement for the reporting period, setting forth the number of tonnes of fertilizers the person distributes during this period.

(3) The report shall be due on or before twenty days following the close of the filing period.

(4) On filing of the statement the distributor shall pay the inspection fee.

(5) If the tonnage report is not filed and the payment of the inspection fees is not made within thirty days after the due date, a collection fee amounting to ten percent and in any case not less than five penalty units



where the amount due is not less than six hundred Ghana cedis shall be assessed against the distributor and added to the amount due.

(6) Where more than one person is involved in the distribution of a fertilizer, the last person who has the fertilizer and is registered and who distributed to a registered distributor or a consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment are made by a prior distributor of the fertilizer.

(7) Where a fertilizer producer in the country exports part or all of its products, the export is not subject to the inspection fee.

(8) Where a fertilizer importer in the country exports part or all of its import, the portion exported is not subject to inspection fees.

(9) Any raw materials imported into Ghana to produce a finished fertilizer shall not be subject to inspection fees, except that the finished fertilizer produced from the imported raw materials is subject to inspection fees.

(10) Inspection fees collected shall be used for the payment of the costs of inspection, sampling, analysis and other expenses necessary for the administration and enforcement of this Act and Regulations made under this Part.

#### **Stop sale order**

84. (1) Where an inspector finds a fertilizer lot being offered for sale contrary to this Part, the inspector shall immediately issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of that fertilizer and hold the fertilizer at a designated place and may affix to the lot or container a warning tag that states the lot is held.

(2) Any lot of fertilizers for which a "stop sale, use or removal" order or notice is issued shall be held by the person having control of the fertilizer and shall not be distributed or moved except under the specific directions of the Regulatory Division pending a final disposition.

(3) Subsection (2) does not prevent a person having control of the fertilizer from inspecting the fertilizer seized, nor from taking from the fertilizer lot in the presence of a person designated by the Division, a representative sample for evidence.

(4) On demand of the person having control of the seized fertilizer, at or prior to the time of the sampling by the inspector, the sample that is taken shall be divided into two approximately equal parts, one part of which shall be sealed and given to the person in control of the product and the other part of which shall be kept for analysis by the inspector.

(5) If the analysis of the seized and held lot, as determined by an analyst, is not in violation of the provisions of this Part or Regulations made under this Part, the inspector shall immediately release the seized and held lot and remove the hold order or tag.

(6) If the seized and held lot is found to be in violation of this Part, the inspector shall

- (a) continue to hold the lot until the requirements of this Part have been complied with, after which the lot shall be released; or
- (b) issue orders for the disposal of the lot in a manner specified by the Ministry.

(7) A person who has control of seized fertilizer may appeal to the Regulatory Division in writing against the results of the analysis within fifteen days after receiving the results of the analyst.

(8) On receipt of the appeal, the Regulatory Division shall submit another sample of the fertilizer for analysis at one of the Regulatory Division's designated laboratory chosen by the appellant.

(9) The cost of sampling and analysis shall be borne by the appellant.

(10) The results of the analysis shall be submitted to the Regulatory Division within sixty days after receipt of the sample and the Regulatory Division shall within seventy-two hours notify the appellant of the acceptance or rejection of the appeal.

#### **Certificate of analysis**

85. (1) On the analysis of an official sample of fertilizer, the Regulatory Division shall issue to the applicant within thirty days after the date the official samples were first taken, a laboratory analysis report showing the results of samples that were taken and a certificate of analysis.

(2) In court proceedings under this Act, the production of a certificate signed by an analyst appointed by the Regulatory Division that states the results of any analyses is prima facie evidence that the official sample was

- (a) taken from the lot that is described in the inspection report;
- (b) taken according to the methods described; and
- (c) analysed by the methods prescribed.

#### *Inspection Fund*

#### **Establishment of the Fund**

86. (1) There is established by this Act a Fund to be known as the Inspection Fund.

- (2) The sources of money for the Fund are
- (a) inspection fees;
  - (b) fees charged for the performance of the functions of the Regulatory Division;
  - (c) donations and gifts;
  - (d) moneys provided by Parliament; and
  - (e) any other moneys that are approved by the Minister responsible for Finance.

**Objects of the Fund**

87. Moneys of the Fund shall be used for
- (a) financing the activities of the Regulatory Division;
  - (b) research, studies and investigations relating to the functions of the Regulatory Division; and
  - (c) any other purpose determined by the Regulatory Division in consultation with the Minister.

**Management of the Fund**

88. (1) The Fund shall be administered by the Regulatory Division and a representative of the Controller and Accountant-General.

(2) The moneys in the Fund shall be paid into a bank account opened by the Regulatory Division with the approval of the Controller and Accountant-General.

(3) Payments issued from the Fund shall be signed by two members of the Regulatory Division and the representative of the Controller and Accountant-General.

*Miscellaneous provisions*

**Mislabelling**

89. (1) A person shall not distribute or offer for sale a misbranded fertilizer.

- (2) A fertilizer is mislabelled if
- (a) its label is false or misleading in any manner;
  - (b) it is distributed or offered for sale under the name of another fertilizer product;
  - (c) it is not labelled as prescribed by this Part and Regulations made under this Part; or
  - (d) it falsely purports to be or is represented as a plant nutrient or fertilizer.

**Adulteration**

**90.** (1) A person shall not distribute an adulterated fertilizer product.

(2) A fertilizer is adulterated if

- (a) it contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown on the label;
- (b) its composition falls below or differs from that which it is purported to possess by its label; or
- (c) it contains unwanted crop seed, weed seed or extraneous material.

**Short weight**

**91.** (1) A person shall not sell any fertilizer in a package where the fertilizer is short in weight by more than one percent of the weight indicated on the package.

(2) A person who contravenes subsection (1) commits an offence and is liable in the case of a first contravention within a three year period to suspension of the licence for ninety days and for a subsequent violation within the three year period to a permanent cancellation of the licence.

**Harmful substances**

**92.** (1) Where the ingredients of a fertilizer used on specific crops or in specific applications are considered harmful to the growth of the plant, the maximum content of the potentially harmful ingredients shall be stated on the label as follows:

- (a) where urea is labelled to be used as a foliar spray or to fertilize citrus crops, the biuret content shall be limited to 1.5%;
- (b) where a fertilizer is labelled to be used on crops that are extremely sensitive to chloride, the fertilizer shall have a maximum of 2.5% chlorine; and
- (c) a warning or caution statement shall be included on the label for any product that contains micronutrients when there is evidence that these micronutrients in excess of a particular percentage may be harmful
  - (i) to certain crops, grazing animals, or
  - (ii) where there are unusual environmental conditions.

(2) Where the content of harmful ingredients exceeds the maximum guarantee stated on the label, the fertilizer shall be classified as adulterated.

#### **Plant nutrient guarantees**

93. (1) Plant nutrients in addition to nitrogen, phosphorus, and potassium where mentioned in any form or manner on the label shall be guaranteed.

(2) Guarantees shall be made on the elemental basis and sources of the elements guaranteed and proof of availability shall be provided to the Fertilizer Regulatory Administrator on request.

(3) The minimum percentage that may be guaranteed is as follows

| <u>Element</u>  | <u>Percent</u> |
|-----------------|----------------|
| Calcium (Ca)    | 1.0000         |
| Magnesium (Mg)  | 0.5000         |
| Sulfur (S)      | 1.0000         |
| Boron (B)       | 0.0200         |
| Chlorine (Cl)   | 0.1000         |
| Cobalt (Co)     | 0.0005         |
| Copper (Cu)     | 0.0500         |
| Iron (Fe)       | 0.1000         |
| Manganese (Mn)  | 0.0500         |
| Molybdenum (Mo) | 0.0005         |
| Sodium (Na)     | 0.1000         |
| Zinc (Zn)       | 0.0500         |

(4) Guarantees or claims for the plant nutrients under subsection (2) in addition to nitrogen, phosphorus, potassium or any other nutrient approved by the Regulatory Division are the only ones that are acceptable.

(5) Where any of the elements listed in subsection (2) is guaranteed, the holder of the registration shall on request, provide the Fertilizer Regulatory Administrator with a copy of the label and directions for the use of the fertilizer.

(6) Any of the elements listed in subsection (2) that are guaranteed shall appear in the order listed and shall immediately follow guarantees for the primary nutrients of nitrogen, phosphorus, and potassium if present.

#### **Slowly released plant nutrients**

94. (1) A fertilizer label shall not bear a statement that connotes or implies that certain plant nutrients contained in the fertilizer are released

slowly over a period of time, unless the nutrients are identified and guaranteed in the label or accompanying instructions or directions.

(2) The term "slow release" shall be used to describe fertilizer products that release or convert to a plant-available form their plant nutrients at a slower rate relative to a "reference soluble" product.

(3) Slow-release products include products coated or occluded, to control the release of soluble nutrients through coating or occlusion of the soluble nutrient compounds.

(4) Water-insoluble or slowly available water-soluble slow release products include

(a) sulphur-coated urea, polymer-coated urea, and other encapsulated soluble fertilizers;

(b) products in which fertilizers are mixed with waxes, resins, or other inert materials and formed into particles; and

(c) ureaform-formaldehyde products.

(5) Water-insoluble products include organic fertilizers, ureaform materials, insobutylidene diurea, and oxamide.

(6) Slowly available water-soluble products include methylenediurea, dimethylenetriurea, and dicyanodiamide.

(7) The term "stabilized" is used to describe fertilizer products that have been modified with an additive that reduces the rate of transformation of fertilizer compounds, resulting in extended time of availability in the soil.

(8) Stabilizing modifiers include nitrification inhibitors, nitrogen stabilizers, or urea inhibitors.

(9) The registration holder shall provide the Fertilizer Regulatory Administrator with a testing programme that substantiates the claims of "slow release" or "stabilizing" characteristics made on the label.

(10) The testing programme shall be conducted by an accredited research institution accepted by the Fertilizer Regulatory Division.

(11) A laboratory procedure acceptable to the Fertilizer Regulatory Division for evaluating the release characteristics of the product shall be provided by the person registered.

*National Fertilizer Council*

**Establishment of the Council**

95. There is established by this Act a National Fertilizer Council.

**The functions of the Council**

96. The functions of the Council are to

- (a) advise the Minister on policies for development of fertilizer manufacture, inspection, sampling, analysis and marketing;
- (b) monitor the supply of fertilizers to ensure fertilizer security in the country;
- (c) develop procedures for the registration of fertilizers;
- (d) prescribe standards for fertilizers and procedures for their registration;
- (e) recommend to the Minister for publication annually in the commercial and industrial Bulletin, a list of fertilizer types for which marketing is permitted;
- (f) recommend to the Minister fees for the registration and testing;
- (g) recommend to the Minister procedures for accreditation; and
- (h) perform other functions that are specified under this Act and that are assigned by the Minister.

**Composition of the Council**

97. (1) The Council consists of

- (a) the Minister or the representative of the Minister who shall be the chairperson;
- (b) the Director, Plant Protection and Regulatory Services Directorate of the Ministry;
- (c) the Director, Directorate of Crop Services of the Ministry;
- (d) the Director-General of the Council for Scientific and Industrial Research or the representative not below the rank of director;
- (e) one representative of fertilizer manufacturers and importers;
- (f) one representative of the National Farmers' Association;
- (g) the Executive Director, Environmental Protection Agency or the representative not below the rank of director.

(2) The members of the Council shall be appointed by President in accordance with article 70 of the Constitution.

**Tenure of office of members**

98. (1) A member of the Council shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) A member of the Council may at any time resign from office in writing addressed to the President through the Minister.

(3) A member of the Council other than the chairperson who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member of the Council.

(4) The President may by letter addressed to a member revoke the appointment of that member.

(5) Where a member of the Council is for sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where there is a vacancy

(a) under subsection (2) or (3) or 100 (2),

(b) as a result of a declaration under subsection (5), or

(c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

#### **Meetings of the Council**

99. (1) The Council shall meet at least once every three months for the despatch of business at the times and places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one third of the membership of the Council convene an extraordinary meeting of the Council at a place and time determined by the chairperson.

(3) The quorum at a meeting of the Council is five members of the Council or a greater number determined by the Council in respect of an important matter.

(4) The chairperson shall preside at meetings of the Council and in the absence of the chairperson, a member of the Council elected by the members present from among their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but that person shall not vote on a matter for decision at the meeting.

#### **Disclosure of interest**

100. (1) A member of the Council who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and



(b) shall not participate in the deliberations of the Council in respect of that matter.

(2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the matter.

#### **Establishment of committees**

101. (1) The Council may establish committees consisting of members of the Council or non-members or both to perform a function except that a committee consisting entirely of non-members may only advise the Council.

(2) Section 100 applies to members of the Sub-Committees.

#### **Allowances**

102. Members of the Council and members of a committee of the Council as well as co-opted members shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

#### *The Ghana Fertilizer Advisory Committee*

#### **Ghana Fertilizer Advisory Committee**

103. (1) Without limiting section 101, there is established under this Act the Ghana Fertilizer Advisory Committee which shall be a committee of the Council.

(2) The Committee shall advise and make recommendations on all matters including

(a) inspection and enforcement of the provisions of this Act;

(b) the annual budget;

(c) necessary fees to provide adequate inspection services in respect of fertilizers; and

(d) Regulations required to accomplish the objective of this Act.

(3) The Ghana Fertilizer Advisory Committee consists of

(a) the Director of the Plant Protection and Regulatory Services Directorate who will serve as chairperson of the Committee;

(b) the Director of the Directorate of Crop Services;

(c) a representative of the Council for Scientific and Industrial Research;

(d) two representatives from the fertilizer private sector or private sector association;

- (e) a representative of the organisation under which the selected analytical laboratory resides;
- (f) a representative of the Environmental Protection Agency;
- (g) a representative of the universities in Ghana;
- (h) a representative of the Attorney-General and Minister for Justice;
- (i) a representative from Ghana National Association of Farmers and Fishermen; and
- (j) the Fertilizer Regulatory Administrator of the Division who will serve as secretary of the Committee.

### **Meetings of the Committee**

**104.** (1) The Committee shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Committee convene an extraordinary meeting of the Committee at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Committee is six members or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Committee and in the absence of the chairperson, a member of the Committee elected by the members present from among their number shall preside.

(5) Matters before the Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Committee may co-opt a person to attend a Committee meeting but that person shall not vote on a matter for decision at the meeting.

### **Disclosure of interest**

**105.** (1) A member of the Council who has an interest in a matter for consideration

- (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) shall not participate in the deliberations of the Council in respect of that matter.

- (2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and
- (a) fails to disclose that interest, or
  - (b) participates in the deliberations of the matter.

**Establishment of Pesticide and Fertilizer Regulatory Division**

106. (1) There is established by this Act a Pesticide and Fertilizer Regulatory Division.

(2) The Pesticide and Fertilizer Regulatory Division shall operate under the Plant Protection and Regulatory Services Directorate of the Ministry.

**Functions of the Pesticide and Fertilizer Regulatory Division**

107. (1) The Division shall

- (a) advise the Minister on matters relating to the implementation of this Part of the Act and Regulations made under this Act;
- (b) be responsible for the implementation of this part of the Act;
- (c) sample, inspect, analyse and test fertilizers distributed in the country and prepare appropriate manuals and reports in respect of these;
- (d) impose the charges that it considers necessary for services rendered by the Division; and
- (e) perform any other functions that are ancillary to the objects of the Pesticide and Fertilizer Regulatory Division under this Act.

(2) The Pesticide and Fertilizer Regulatory Division shall advise the Minister to designate analytical laboratories which shall be responsible for

- (a) receiving and documenting receipt of official fertilizer samples from the inspection services;
- (b) preparing and analysing official samples; and
- (c) reporting results of analysis to the Administrative Service Division.

**Pesticides and Fertilizer Regulatory Administrator**

108. The Pesticide and Fertilizer Regulatory Administrator shall be responsible for the day-to-day administration of the affairs of the Division.

**Units of the Division**

- 109.** (1) The Division shall have the following Units:
- (a) Administrative Service Unit, and
  - (b) Inspection Service Unit.
- (2) The Administrative Service Unit is responsible for administrative activities and financial matters, including
- (a) licencing of fertilizer producers, importers, and dealers;
  - (b) deficiency reports and penalty payments;
  - (c) collection of inspection fees;
  - (d) suspension and cancellation of licences; and
  - (e) budget.
- (3) The Inspection Service Unit is responsible for
- (a) inspecting fertilizers and fertilizer records;
  - (b) sampling of fertilizers; and
  - (c) performing other enforcement matters as stated in this Act and Regulations made under the Act.
- (4) The Minister shall designate analytical laboratories which shall be responsible for
- (a) receiving and documenting receipt of official fertilizer samples from the Inspection Service;
  - (b) preparing and analyzing official samples; and
  - (c) reporting results of analysis to the Administrative Service Division.

**Staff of a Unit**

- 110.** (1) A Unit shall have officers necessary for the effective performance of its functions.
- (2) The President shall in accordance with article 195 of the Constitution appoint the staff of the Unit.

**Co-operation with other bodies**

- 111.** The Unit shall co-operate with and enter into agreements with other agencies in the performance of functions under this Act.

**Accounts and audit**

- 112.** (1) The Division shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.
- (2) The Division shall submit the accounts of the Division to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Division shall be the same as the financial year of the Government.

**Annual report and other reports**

113. (1) The Division shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Division for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Division shall also submit to the Minister any other reports which the Minister may require in writing.

**Offences**

114. (1) A person who sells, offers for sale or distributes

- (a) any fertilizer with plant nutrient deficiencies or without a licence;
- (b) a misbranded fertilizer;
- (c) an adulterated fertilizer;
- (d) a fertilizer containing heavy metals above the maximum permissible limits; or
- (e) any other prohibited product under this Act,

commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment not exceeding two years or to both.

(2) In the case of a continuing offence the person convicted is liable to a further fine of ten penalty units for each day during which the offence continues.

(3) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units.

**PART FOUR—PLANTS AND FERTILIZER FUND**

**Plants and Fertilizer Fund**

115. There is established by this Act a Fund to be known as Plants and Fertilizer Fund.

**Objects of the Fund**

116. The objects of the Fund are to provide financial resources:

- (a) to meet the cost of emergency, phytosanitary situations, including compensation in cases of destruction of plants, plant products or regulated articles in pursuance of this Act;
- (b) for effective management of the seed industry including a national seed security stock;
- (c) for research and investigations relating to fertilizers; and
- (d) for any other purpose determined by the Minister in consultation with the Director.

**Sources of the Fund**

117. The sources of money for the fund are:

- (a) moneys approved by Parliament;
- (b) fees charged under this Act;
- (c) donations, grants and gifts; and
- (d) any other moneys that are recommended by the Minister and Ministry of Finance and approved by Parliament.

**Management of the Fund**

118. The Fund shall be administered by a seven member committee comprising:

- (a) the Minister who shall be the chairperson; and
- (b) two members each nominated from the Plants, Seeds and Fertilizer Councils.

**Bank Account for the Fund**

119. Moneys received on behalf of the Council for the Fund shall be deposited in an account to the credit of the Council in a bank approved by the Minister responsible for Finance.

**Accounts and Audit**

120. (1) The Council shall keep books of accounts and proper records in relation to them in the form approved by the Auditor-General.

(2) The Council shall submit its accounts to the Auditor-General for audit within three months after the end of each financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the account, audit the account and forward a copy of the audit report to the Minister.

(4) The financial year of the Council shall be the same as the financial year of the Government.

#### **Annual and other reports**

121. (1) The Council shall within a month after the receipt of the audited accounts submit an annual report to the Minister covering the activities and operations of the Council for the year to which the report relates.

(2) The annual report shall include the audited accounts of the Auditor-General.

(3) The Minister shall, within a month after the receipt of the annual report together with the Auditor-General's report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Council shall also submit to the Minister any report which the Minister and the Committee of Parliament responsible for Agriculture may require in writing.

### **PART FIVE—MISCELLANEOUS MATTERS**

#### **Power of Minister to assign function**

122. The Minister may assign any function under this Act to a Director or other qualified government official where appropriate.

#### **Regulations**

123. (1) The Minister may by legislative instrument make Regulations to prescribe

(a) in Part One for

- (i) the circumstances under which plants and plant materials must or need not be accompanied with an import permit or a phytosanitary certificate;
- (ii) the circumstances under which plant materials and regulated pests are not to be imported into the country from certain locations;
- (iii) the fees and charges for any permit or certificate issued under this Part;
- (iv) restrictions on the introduction into the country of any plant, plant material, organisms, soil,

- packing material or other items likely to introduce any plant pest into the country;
- (v) the procedures to be adopted for the inspection and treatment of imported items and their entry into the country for the purpose of preventing or controlling plant pests;
  - (vi) the procedures for inspection of plants, plant material, soil, packing material or other items for export;
  - (vii) the manner in which designated officers carry out the destruction, removal, uprooting or treatment of plants, plant material or other items within an area or location declared as under quarantine;
  - (viii) the procedures for the exercise of the designated officer's powers under this Act;
  - (ix) which pests are to be considered regulated pests for the country;
  - (x) the requirements for the control and care of plants, plant materials or other items maintained in plant quarantine stations; and
  - (xi) additional measures to be taken for the purpose of protecting the country against the introduction and spread of plant pests;
- (b) in Part Two for
- (i) the requirements and procedures for variety testing, release and registration of seeds;
  - (ii) the standards for the various classes of seeds and crops which are eligible for certification;
  - (iii) the conditions and the procedures under which and the manner in which seed crops may be inspected or seeds may be graded or tested;
  - (iv) the minimum standards of purity, germination, re-testing, quality and disease of seeds;
  - (v) the conditions for sampling and testing of seeds;
  - (vi) the fee to be charged for any services provided under this Part of the Act;
  - (vii) the criteria and methodology for authorisation or accreditation to individuals, third parties, seed



- laboratories and seed dealers to conduct field inspection, seed sampling, seed testing and labelling;
- (viii) the marking, packaging of seeds and labelling of packages;
  - (ix) the certification of seeds and conditions to be complied with before seeds of any kind or variety may be certified or approved;
  - (x) in respect of the limits, restrictions and conditions for the importation of any particular variety or class of seeds;
  - (xi) the classification of the species of plants of the seeds which are considered weed seeds or noxious weed seeds in relation to seed classes under this part of the Act;
  - (xii) the establishment of the procedures for utilisation, access and budget-setting for the Seed Fund;
  - (xiii) the establishment of the procedures for crop variety release and registration; and
  - (xiv) other matters that are necessary to give effect to the provisions of this Act;
- (c) in Part Three for
- (i) the fees and penalties to be paid under this Act;
  - (ii) the conditions for inspection, sampling and analysis of a fertilizer;
  - (iii) labelling requirements;
  - (iv) a fertilizer containing heavy metals above the maximum permissible heavy metals limits in a fertilizer;
  - (v) change in the membership of the Regulatory Division;
  - (vi) environmental and public health issues;
  - (vii) plant nutrient guarantees;
  - (viii) publication of deficiency reports and annual fertilizer tonnage reports; and
  - (ix) any other matters necessary for the effective implementation of this Act.

**Interpretation**

124. In this Act, unless the context otherwise requires,

(a) in Part One

“appropriate treatment” means the authorised procedure for the killing, removal and rendering infertile of pest;

“area of low pest prevalence” means an area within a country or parts of several countries to be areas identified by competent authorities in which specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measure;

“beneficial organism” includes fungi, nematodes, bacteria, viruses, virus-like organisms, microplasma, microplasma-like organisms, and invertebrate or other organisms declared by the Minister in writing to be beneficial to the flora or agricultural production in the country;

“conduct” includes carrying out advocacy and regulation;

“Council” means the Plant Protection Advisory Council established under section 17 of this Act;

“container” means a box, bag or other receptacle in which plants, plant materials, plant pests, beneficial organisms or soil or other items are kept or carried;

“containment” means the application of phytosanitary measures in and around an infested area to prevent the spread of a pest;

“conveyance” means a vessel, aircraft, train, vehicle, cart, container, animal or other thing which can convey plant materials, plant pests, beneficial organisms or soil from one place to another;

“court” means a court of competent jurisdiction;

“designated officer” means a Director or qualified government official assigned a function under this Act;

“Director” means the Director of the Plant Protection and Regulatory Services Directorate;

“Directorate” means the Plant Protection Regulatory Service Directorate of the Ministry;

“Division” means the Plant Quarantine Services Division;

“eradication” means application of phytosanitary measures to eliminate a pest from an area;

- “exporter” includes a person who sends plant or plant material outside the country, the shipper of the goods and any person who performs similar functions in the case of an aircraft;
- “exporting country” means the country from which plant or plant products are sent to another country;
- “government agency” means a body set up in the public interest with or without an Act of Parliament;
- “import permit” means the permit given to a person by the appropriate authority to bring a plant or plant material into the country;
- “importer” means a person in possession of or in any way entitled to the custody of any plant, plant material, plant pest, beneficial organism, soil, or packing material landed or likely to be landed in the country from another country;
- “import contracting party” means the person who brings plants or plant materials into the country;
- “international traffic” means plants and plant products involved in international trade;
- “maintainer” means a person or an institution that is responsible for keeping a released variety true to its original description for producing;
- “packing material” means any material used to pack, contain or keep plants, plant material, beneficial organisms, soil or plant pests;
- “pest free area” means an area in which a specific pest does not occur as demonstrated by scientific evidence and in which this condition is being officially controlled where appropriate;
- “pest risk analysis” is 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 a certificate following the pattern of the model certificate of the International Plant Protection Convention and covers only one consignment;
- “place” means a location where plant materials may be

confined or cultivated for phytosanitary inspection, observation, testing or research;

“plant material” includes an unmanufactured material of plant origin grain and other manufactured product which, by its nature or that of its processing, may create a risk of spreading plant pests;

“plant pest” means any species, strain or biotype of plant, animal or pathogenic agent which is injurious or potentially injurious to plants or plant materials;

“plant quarantine station” means an official station designated by the Minister as an area where plant propagating material is grown or screened in isolation and in a controlled environment if required;

“plant” means a living plant and the living part of a plant including seed and germ plasma, plant tissue culture, fruit, vegetables, bulbs, root and tuber;

“premises” includes house, building, structure, tent, land, ship, boat, aircraft or mechanically propelled vehicle;

“prohibited item” means any plant, plant material or regulated pest that the Minister may not admit to be imported to the country;

“public servant” means a person paid from the Consolidated Fund or directly out of moneys provided by Parliament;

“quarantine pest” means a pest of potential national economic importance and danger to the country, not yet present in the country or present but not widely distributed and being officially controlled;

“prescribed” means provided by Regulations made under this Act;

“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, considered to require phytosanitary measures, particularly where international transportation is involved;

“regulated non-quarantine pest” means a non-quarantine pest whose presence in plants for planting has an unacceptable economic impact and which is maintained and regulated within the territory of the import contracting party;

“regulated pest” means a quarantine pest or a regulated non-quarantine pest;

- “Service” means the Plant Protection and Regulatory Services Directorate;
- “soil” means the loose surface material of the earth in which plants grow and in most cases consist of disintegrated rock with a mixture of material and soluble salts;
- “surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;
- “treatment” includes any officially authorised procedure and the use of chemicals, heat or low pressure, intended to ensure the killing, removal or rendering infertile any plant pest;
- (b) in Part Two
- “accreditation” means formal recognition of technical competence to carry out official specific tasks;
- “accredited person or entity” means a public or private body empowered by the Minister to undertake quality control and certification activities;
- “accredited research institution” means a public or private body authorised by the Council for Scientific and Industrial Research to engage in agricultural research;
- “advertisement” means a representation, commercial or otherwise, other than labelling, disseminated in any manner or by any means by the seller of seed in relation to the seed;
- “analyst” means a person appointed or designated as an analyst to determine the quality of a seed sample under this Part;
- “basic seed” means seed from a pre-basic seed produced under the responsibility of the maintainer and approved for the production of certified seeds;
- “certification” means the approval given in the seed quality control process in the field or in a laboratory, leading to the assurance that the seed conforms to the minimum standards of variety purity in accordance with the provisions of the Regulations;
- “certified seed” means a seed obtained from a basic seed which conforms to the minimum standards for that seed class or if approved for that species, from a first generation certified seed;
- “compound fertilizer” means a fertilizer having at least two primary plant nutrients;

- “class” means the categories of seeds of the same nature potentially of one or several generations;
- “Commissioner-General” means the Commissioner-General for the Ghana Revenue Authority appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791) or the representative of the Commissioner-General;
- “court” means a court of competent jurisdiction;
- “dealer” means a person who imports, grows, breeds, cleans or sells seeds in commercial quantities;
- “designated officer” means an officer appointed by the Minister to perform certain duties;
- “emergency seed” means a class of non-certified seed to be used in a case of acute seed shortage during and after natural or human disaster;
- “importer” includes the owner or the person for the time being possessed of or beneficially interested in any goods at and from the time of the importation of the goods until the goods are duly delivered out of the charge of the proper officer, and also a person who signs a document relating to imported goods required by this Act, to be signed by an importer;
- “inspector” means any technician with responsibility to conduct field and seed inspections in conformity with the prescribed regulations;
- “label” means any document visibly displaying prescribed information in a readable manner to facilitate seed identification or traceability;
- “lot” means a definite quantity of seed identified by a lot number or other mark with each portion or bag of the lot being uniform within recognised tolerance for the factor which appears in the labelling of the lot;
- “maintainer” means a person or institution that is responsible for keeping a released variety true to its original description for production;
- “mixed fertilizer” means a fertilizer derived from a mixture of various kinds or types of chemical and/or organic fertilizer;
- “noxious weed seeds” means the seed produced from plants which are especially troublesome and detrimental and which may cause damage or loss to a considerable portion of land or livestock of a community;

“package” means any container notably a sack, bag, barrel, or case made of a variety of materials comprising among others cotton, paper, aluminium and polyethylene in which seeds are packaged;

“place” includes any vehicle, vessel, railway, aircraft, seed store, seed processing plant or seed warehouse;

“prescribed” means provided by Regulations;

“single fertilizer” means a fertilizer having one primary plant nutrient;

“seeds” includes any planting material or organ, or part of a plant organ, such as a grain, shoot, bulb, scion, rhizome, tuber or embryo, intended to reproduce itself;

“variety” includes the collection of plants of the lowest known botanic taxon, defined by using the characteristics of some genotype or a combination of genotypes, distinguishable from other plant collections by at least one of these characteristics and considered as an entity given its capacity for authentic reproduction and provenances of forest tree seeds;

“weed seed” means any plant or plant part injurious to agriculture, which is declared to be so by the Minister;

(c) in Part Three

“analyst” means a person appointed or designated as an analyst pursuant to Regulations made under this Part;

“brand” means a term, design, or trademark used in connection with one or several grades of fertilizer;

“distribute” means to import, consign, produce, mix, or blend fertilizer or to offer for sale, sell, barter, or otherwise supply fertilizer;

“dealer” means a person other than a producer or importer who supplies and sells fertilizers in Ghana;

“chemical fertilizer” means fertilizer produced by chemical processes or mined and derived from an inorganic substance or synthetic organic substance;

“Fertilizer Regulatory Administrator” means the individual appointed by the President to head the Ghana Fertilizer Regulatory Division;

“fertilizer” means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and is designed for use in promoting plant growth;

- “grade” means the percentage of total nitrogen (N) available phosphate ( $P_2O_5$ ), and soluble potassium ( $K_2O$ ) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis;
- “guaranteed analysis” means the minimum percentage of all plant nutrients claimed;
- “heavy metals” means element with very substantial atomic weight including lead and mercury;
- “importer” means a person who imports, consigns, sells, barter, or otherwise supplies and sells fertilizers in Ghana;
- “inspector” means a person appointed or designated as an Inspector pursuant to Regulations made under this Part;
- “investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer;
- “label” means the display of written, printed, or graphic matter upon the immediate container; a statement accompanying a fertilizer; or advertisements, brochures, posters, television, radio or internet announcements used in promoting the sale of fertilizer;
- “lot or sampling unit” means a defined quantity of fertilizer that can be sampled officially and has a boundary which may be physical.
- “organic fertilizer” means fertilizer derived from non-synthetic organic material including sewage sludge, animal manures, and plant residues, which is produced through the process of drying, cooking, composting, chopping, grinding, fermenting, or other methods and on which there is a declaration of nutrient value on the label;
- “official sample” means any sample of fertilizer taken by an inspector or agent of the Ghana Fertilizer Regulatory Division and designated as official by the Ghana Fertilizer Regulatory Division;
- “Pesticide and Fertilizer Regulatory Division” means the Division in the Ministry of Food and Agriculture designated by the Minister to have charge and control of the execution of this Part and any Regulations enacted under this Part;
- “prescribed” means provided by Regulations;



“plant nutrient” means a chemical element in fertilizer that is recognized as essential for plant growth;

- (i) “primary nutrients” refers to the elements nitrogen phosphorus and potassium;
- (ii) “secondary nutrients” refers to the elements calcium, magnesium and sulfur; and
- (iii) “micronutrients” refers to the elements boron, Chlorine Cobalt, Copper, iron, manganese, molybdenum, sodium and zinc;

“post office” includes

- (a) a house, building, room, vehicle, place or structure where postal articles are received, sorted, delivered, made up or despatched or which is used for any other postal purpose in connection with the rendering of any postal service, money transfer or other services by Ghana Post; and
- (b) any pillar box or other receptacle provided by or under the authority of Ghana Post for the reception of postal articles;

“producer” means a person who produces, supplies and sells fertilizers in Ghana;

“reference solution” means a solution of known concentration used as a standard of comparison of analysis;

(d) in any part of this Act

“Ministry” means the Ministry of Food and Agriculture;

“Minister” means the Minister responsible for Agriculture;

“person” means an individual, corporate, government or governmental subdivision or agency, society, association, enterprise, trustee, receiver, or any other institution; and

“sell” means to sell, offer for sale, expose for sale, or have in possession for sale and distribution.

#### **Repeals and savings**

125. (1) The following enactments are repealed

- (a) the Prevention and Control of Pests and Diseases of Plants Act, 1965, (Act 307); and
- (b) the Seeds (Certification and Standards) Act, 1972 (NRCD 100).

(2) Despite the repeal in subsection (1), Regulations, bye-laws, notices, orders, directions, appointments or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until revoked, cancelled or terminated.

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