

Plant Protection Act, No. 35 of 1999

[Certified on 7th October, 1999]

L.D.-O. 31/97.

AN ACT TO MAKE PROVISION AGAINST THE INTRODUCTION INTO SRI

LANKA AND THE SPREADING THEREIN, OF ANY ORGANISM HARMFUL TO, OR INJURIOUS TO, OR DESTRUCTIVE OF, PLANTS, AND FOR THE SANITATION OF PLANTS IN SRI LANKA ; FOR THE REPEAL OF THE PLANT PROTECTION ORDINANCE (CHAPTER 447) ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

1. This Act may be cited as the Plant Protection Act, No. 35 of 1999. Short title.

PART I

ADMINISTRATION OF THE ACT

2. The Director-General of Agriculture (hereinafter in this Act referred to as the "Director-General") shall be in charge of general administration of this Act by performing the functions assigned or transferred to him by this Act. Appointment of Director-General of Agriculture.

3. The Director-General shall nominate such number of officers as may be necessary for the purposes of assisting him in carrying out or giving effect to the provisions of this Act, who shall be known as "authorised officers". Authorised officers.

PART II

PROCEDURE

4. (1) It shall be lawful for the Director-General or authorised officer having reasonable grounds therefor to enter with or without assistants, at all reasonable times, upon any Entry on premises for purpose of inspection.

premises suspected to harbour a pest or pests for the purpose of inspecting and examining whether a pest or pests exist therein, and the importer of such pest or pests or the owner or the occupier of such premises, as the case may be, shall afford all reasonable facilities for such inspection and examination. The identity of the authorised officer shall be shown to the owner or occupier of the premises, before entry into the premises.

(2) After inspection and examination referred to in subsection (1), if the Director-General or the authorised officer is satisfied that a pest or pests exist in any premises, and having regard to the nature of the pest or pests and the likelihood of its or their spread, the Director-General or the authorised officer shall communicate his decision, in writing with the reasons therefor, to the importer of such pest or pests or owner or occupier such premises directing such importer, or owner or occupier of such premises, as the case may be, to carry out such measures or execute such work for the prevention of spreading of such pest or pests, as may be specified in such direction.

(3) It shall be the duty of the importer of such pest or pests, owner or occupier of such premises, as the case may be, to comply with any direction made by Director-General or the authorised officer under subsection (2), unless such importer, owner or occupier prefers an appeal against such direction under section 9.

Director-General
or authorised
officer or person
assisting them not
to be deemed
trespasser by
reason of entry
&c.

5. Neither the Director-General, nor any authorised officer, or any person assisting them, shall be deemed a trespasser by reason of any entry into any premises or destruction of plant and plant products or action taken or thing done under this Act or any regulation made thereunder, or be liable to any damages or prosecution by reason of anything done or omitted to be done in carrying out any of the provisions of this Act or of any regulation made thereunder, unless the same was done or omitted *to be done mala fide* and without reasonable and probable cause.

6. (1) Where any importer of any pest or pests, or owner or occupier of any premises is required or directed under section 4, to carry out any measures or to execute any work in or upon any premises and if such person fails, neglects, or refuses to comply with such requirement or direction, the Director-General or an authorised officer with or without assistants may enter such premises for the purpose of carrying out such measures or executing such work.

Power of the
Director-General
or authorised
officer to carry out
measures or
execute work and
recover the
expenses thereof.

(2) The Director-General or an authorised officer entering any premises under subsection (1), may take with him such equipment, machinery and vehicles as is or are necessary for the purpose of facilitating the exercise of his powers under subsection (1).

(3) All reasonable expenses incurred by the Director-General or any authorised officer for the purpose of carrying out any measures or executing any work in or upon any premises under subsection (1), and any expenses incurred by the State shall be payable by the person who was required or directed under section 4 to carry out such measures or execute such work, and may be recovered from that person in the manner hereafter provided.

(4) Any reasonable expenses payable by any person under subsection (3) may be recovered, upon application made, by the Director-General or any authorised officer authorised in that behalf by the Director-General to the Magistrate's Court within whose jurisdiction such person is resident or the measures were carried out or the work was executed, in like manner as a fine imposed by that court, notwithstanding that the amount of such expenses referred to in subsection (3) may exceed the amount of the fine which such court may in the exercise of its ordinary jurisdiction impose.

(5) The imposition of a fine under subsection (4) shall not relieve such person from any prosecution for any offence to which he may be liable by reason of his failure, neglect or refusal to comply with the requirement or the direction made under section 4.

PART III**QUARANTINE PESTS**

, Quarantine
pests.

7. (1) The Minister may, from time to time by Notification in the Gazette, declare the quarantine pests which shall not be imported into Sri Lanka as themselves or as infestations on any plant or plant product unless imported under the provisions of subsection (6) of this section.

(2) If any person has proof of the presence of a quarantine pest or pests declared by the Minister under subsection (1), of this section, within any area in Sri Lanka he shall forthwith inform in writing the presence of such pest or pests to the Director-General.

(3) No person shall knowingly keep, sell, plant, release, deliver, or otherwise dispose of, or knowingly cause or permit to be kept, sold, planted, released, delivered, or otherwise disposed of, any plant or plant product infested with any quarantine pest declared by the Minister under subsection (1) of this section, unless such person has specific written instructions from the Director-General to do so.

(4) Nothing in subsection (3), of this section shall prohibit the destruction, or the delivery to the Director-General or to an authorised officer, of any plant or plant product referred to in subsection (3) of this section.

(5) If the Director-General receives any information regarding the presence of any quarantine pest or pests in any area within Sri Lanka, he shall forthwith take such action as may be deemed necessary to control such pest or pests.

(6) Notwithstanding the provisions of this Act, any quarantine pest or pests declared by the Minister under subsection (1), or any plant or plant product infested by such pest or pests may be imported into Sri Lanka strictly for scientific studies by the Government of Sri Lanka after giving notice to the Director-General, under the authority of an import

permit issued by the Director-General, and in accordance with such conditions including conditions as to the facilities and trained personnel for the proper quarantine of the material imported, as may be specified by the Director-General.

(7) The importation of quarantine pest or pests, or plant or plants or plant products infested by such pests under subsection (6) shall be done only for the use of a government department or a public corporation engaged in scientific research and only if proper facilities including the trained personnel specified by the Director-General are available in such department or corporation for the containment and quarantine of such pest or pests or such plants or such plant products.

PART IV

APPEALS

8. (1) There shall be established an Appeals Panel for the purposes of this Act.

Constitution
of the Appeals
Panel.

(2) The Appeals Panel shall consist of three members appointed from a panel of fifteen persons consisting of scientists who are qualified in the fields of Entomology, Plant Pathology, **Microbiology**, Mycology, Virology or Nematology who shall be appointed by the Secretary.

(3) The Secretary shall appoint one of the appointed members to be the Chairman of such Appeals Panel.

9. (1) Any person who is aggrieved by the decision of the Director-General or an authorised officer under subsection (2) of section 4, may within seventy-two hours of the communication of such decision to him, appeal in writing against such decision to the Secretary giving grounds for such appeal.

Appeals.

(2) The appeal shall be accompanied by a monetary deposit of such sum as may be specified by the Secretary in the form of a bank draft or money order in favour of the Director-General. The deposit shall be refunded only if the

appeal overrules the decision of the Director-General or authorised officer as the case may be.

(3) The Appeals Panel established under section 8, shall be appointed within two days and shall deliver its decision within seven days after the receipt of the appeal by the Secretary. The decision of the Appeal Panel shall be final and conclusive and shall be communicated immediately by the Secretary to the appellant and the Director-General or the authorised officer.

(4) The members of the Appeals Panel may be paid such remuneration as the Minister may determine in consultation with the Minister in charge of the subject of Finance.

PART V

OFFENCES AND PENALTIES

Offences.

10. (1) Every person who, without lawful authority or excuse contravenes any provision of this Act or any regulation made thereunder, or does or omits to do anything which under the provisions of this Act or of any regulation made thereunder he ought not to do, or omit, to do, or if he resists or obstructs, or assists in resisting or obstructing, or if he incites any person to resist or obstruct, the Director-General or any authorised officer, or any person assisting them, in the implementation of any provisions of this Act or any regulation made thereunder, shall be guilty of an offence under this Act.

(2) Any person who is guilty of an offence under this Act shall be liable on conviction before a Magistrate to imprisonment of either description to a term not less than one month and not exceeding six months, or to a fine not less than ten thousand rupees and not exceeding one hundred thousand rupees, or to both such fine and imprisonment.

(3) It shall be lawful for a Magistrate to summarily try any offence against this Act or any regulation made thereunder, notwithstanding that the punishment specified for such offence is in excess of the ordinary jurisdiction of such Magistrate.

(4) Any vehicle or carrier or other instrument, contrivance, appliance, or thing used in, or in connection with the commission of any offence against this Act shall by reason of that conviction be forfeited to the State.

(5) Every person who, under pretence of performing any act under the authority of this Act or of any regulation made thereunder commits any unnecessary violence or causes, any unnecessary loss or unnecessary annoyance to any person shall be guilty of an offence under this Act.

11. Where an offence against this Act has been committed by a body of persons then—

- (a) if that body of persons is a body corporate, every director, manager, secretary, or officer of that body corporate ; or
- (b) if that body is a firm, every partner and every manager of that firm,

**Offences
committed by a
body of persons.**

shall be guilty of that offence unless he proves that the offence was committed without his consent or concurrence and that he exercised all due diligence to prevent the commission of such offence.

PART VI

GENERAL

12. (1) The Minister may make regulations with respect to any matter required by this Act to be prescribed or in respect of which regulations are required or authorised to be made. **Regulations.**

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations :

- (a) for the prevention of introduction into Sri Lanka, or for the eradication, or for the prevention of spreading therein of, pests, and for the export of plants, plant products or organisms from Sri Lanka ;

- (b) for restricting or prohibiting the importation into Sri Lanka of any plants, plants products and organisms and for restricting or prohibiting the entry points at which they may be landed;
- (c) for restricting or prohibiting the landing in Sri Lanka of plants, plant products and organisms, either absolutely or conditionally;
- (d) for providing for the importation of organisms under special licence and conditions;
- (e) for inspecting and or testing plants, plant products and organisms at, before, or after, the time of landing;
- (f) for testing, cleaning, fumigating, or disinfecting, at the expense of the importer and or the owner and if expedient, destroying at, before, or after, landing and without compensation, all plants, plant products and organisms, or the packages, cases, pots, or coverings in which they may be packed, and which are found to be infected with any pest or pests and for the recovery of prescribed fees for such destruction from the importer and or owner;
- (g) for requiring the quarantine of plants, plant products and organisms imported or to be imported, in special areas, and for fixing the conditions of such quarantine and the fees to be charged therefor;
- (h) for preventing the outbreak or dissemination of any pest within Sri Lanka;
- (i) for declaring any area to be an infested area, and for the proper quarantine of an specified area declared as being infested with any pest;
- (j) for testing, treatment, destruction and proper disposal, of plants or plant products affected or likely to be affected with any pest;

- (k) for restricting or prohibiting the cultivation of any plant or plants for a specified period or periods within any specified area or areas in Sri Lanka;
- (l) for regulating the transfer of plants, plant products or organisms from one locality in Sri Lanka to another;
- (m) for the constitution of committees to advise the Director-General and the authorised officers, and to take such other action as may be necessary to ensure the effective administration of the provisions of this Act;
- (n) for ensuring the phytosanitary status of the plants, plant products or organisms exported from Sri Lanka; and
- (o) for charging fees for implementing the provisions of this Act and the regulations made thereunder.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of publication or on such later date, as may be specified in the regulation.

(4) Every regulation made under this Act shall have the same force and effect as if they were contained in this Act.

(5) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(6) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

13. (1) The Plant Protection Ordinance (Chapter 447) is hereby repealed.

Repeal of
Chapter 447
and savings.

(2) Notwithstanding the repeal of the aforesaid Ordinance every regulation made under the repealed Ordinance as is in force on the date of commencement of this Act shall in so far as it is not inconsistent with the provisions of this Act be deemed to be a regulation made under this Act and may be amended or rescinded by regulation made under this Act.

Sinhala text to
prevail in case of
inconsistency.

14. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

PART VII

INTERPRETATION

Interpretation.

15. (1) In this Act unless the context otherwise requires—

“genetically modified” means an organism derived from any activity which has involved or resulted in the formation or derivation of new combinations of heritable material by the insertion of nucleic acid molecules, produced by whatever means outside the cell, into any virus, bacterial plasmid, or other vector system so as to allow their incorporation into a host organism in which they do not naturally occur but in which they are capable of continued propagation ;

“importer” means-

- (a) any person who, whether as consignor, consignee, agent, broker, or otherwise, is in possession of, or in any way entitled to, the custody or control of any plant, plant product or organism;
- (b) any person by whose act any plant, plant product or organism has been landed in or entered into Sri Lanka;

“living modified” means an organism derived or produced by altering or modifying the genetic material of an organism through the use of biological techniques such as recombinant DNA technology, molecular biology, cell or tissue culture, cell fusion, artificial mutagenesis, or through the use of a vector system such as virus, phage, plasmid but not through the ways that occur naturally by mating, mutation or recombination processes;

“Minister” means the Minister in charge of the subject of Agriculture;

“occupier” in relation to any premises includes the proprietor, lessee, superintendent, manager, captain of a ship or vessel or other person in actual charge of such premises;

“organism” included any active, infective, or dormant stage of life form of an entity characterised as living, including plants, bacteria, algae, fungi, phytoplasma, mycoplasmas, mycoplasma-like entities, protozoa, vertebrate and invertebrate animals, as well as entities such as viruses, viroids, plasmids, phages or any living entity, related thereto, whether natural, genetically modified, living modified, or otherwise;

“owner” means the holder or possessor of any plant, plant product or organism;

“pest” means any biotic agent capable of causing injury or damage or loss to plants or plant products and shall include weeds;

“plant” means all members of the plant kingdom, whether living or dead, or any part or parts thereof and includes seeds:

“plant product” means all unprocessed material of plant origin including grain and include those processed products of plant origin that by their nature or by reason of their processing, may create a risk for the spread of pests;

“premises” includes any land, water reservoir, building, establishment, stores, freight, container, vehicle, vessel, aircraft, or conveyance wholly or partly used for keeping, storing, transporting, or growing plants or for keeping, storing, or transporting plant products;

“quarantine pest” means a pest of potential economic or environmental importance to any area within Sri Lanka and not yet present there, or present but not widely distributed and being **officially** controlled;

“Secretary” means the Secretary of the Ministry of the Minister in charge of the subject of Agriculture; and

“weed” means a plant which is competitive, persistent, pernicious and interfering with man and his activities.

(2) Any reference in this Act or regulations made thereunder to a **scientific** name of any organism shall be construed as a reference to all synonyms used for that particular organism.

(3) Any reference in this Act and regulations made thereunder to a particular pest shall be construed as a reference to that pest in any stage of its existence.