

THE PLANT QUARANTINE ACT OF BHUTAN, 1993

1. PURPOSE

The purpose of this Act is:-

to prevent the introduction into Bhutan of pests not already present or widespread in the country;

to control those pests already in the country by restricting their spread and by endeavouring to eradicate them;

to provide facilities for services for import and export of plants and plant products; to extend co-operation in the prevention or movement of pests in international trade and traffic.

2. TITLE

This Act shall be called the Plant Quarantine Act of Bhutan, 1993 and shall apply to the whole of Bhutan.

3. TIME OF OPERATION

This Act shall come into force immediately following its passage by the National Assembly.

4. DEFINITIONS

In this Act:-

Carrier is defined as a means of transport and includes any persons aircraft, automobile, lorry, cart, animals, transport of materials of any sort whereby plants, goods, or soil are moved from place to place.

Contamination means the presence of a pest on any material or object not of plant or animal origin.

Goods means any moveable property involving a quarantine hazard.

Inspection means examination of plants, goods or soil by an authorised person or Inspector for the purpose of detecting pests. Such inspection may involve removal of plants, goods or soil or a sample of them, to a quarantine station or laboratory, where special facilities are available.

Inspector means an officer duly appointed under the Act.

Notifiable plant pest means any plant pest which the Royal Government by Regulation, has declared to be a notifiable plant pest.

Organisation means any institution, association, company or body, private or public, dealing in or concerned with the import or export of plants, pests, goods or soil.

Owner means the person or organisation responsible for plant, pests, goods or soil, because he, she, or it is the owner or owner's agent, or the person to whom these are consigned, or by whom they are being exported, or the person or organisation in charge of the carrier in which plants, pests, goods or soil are being carried or have been carried.

Package includes the means by which plants, pests, goods or soil are encased, covered, enclosed, contained, or packed for carriage from one point to another, and includes mail.

Permit means a written authorisation given by an authorised person for the movement of plants, pests, goods or soil.

Phytosanitary Certificate means a certificate substantially in the form of the Model Certificates of the International Plant Protection Convention (IPPC) as amended in 1979. They may contain special certifications or statements as requested by the importing country.

Plant means all species and types of plants or any part thereof, either living or dead, including stems, branches, tubers, bulbs, corms, stocks, budwood, cuttings, slips, layers, suckers, roots, leaves, flowers, seeds and seedlings.

Plant pest or **pest** means any form of plant or animal life, or any pathogenic agent, injurious or potentially injurious to plants or plant product.

Plant product means any unmanufactured material of plant origin and those manufactured products which by their nature, or that of their processing, may create a risk for the spread of pests.

Point of Entry means any area approved as such by the Royal Government at which plants, plant products, goods or soil may come into the country. It may include a post office, airport, transport terminal or border check-post.

Post-entry Quarantine Station means a place approved for the holding of plant for the further inspection and growth after they have been imported.

Prohibited material means any plant, pest, goods or soil notified as such by the Royal Government.

Quarantine plant pest means any plant pest which the Royal Government by Regulation has declared to be a quarantine plant pest.

Quarantine premises or station means a place approved by the Royal Government for the interception, inspection, detention, treatment, reconsignment or destruction of plants, pests, goods or soil being imported, exported or in transit.

Royal Government for purposes of implementation of this Act means the Ministry of Agriculture.

Soil means any medium such as earth or compost in which plants can grow or be propagated, or which may serve to harbour any pests.

Treatment means any form of treatment, including disinfection and disinfestation, to ensure removal, sterilisation or killing of any pest by such means as are deemed appropriate, and includes destruction.

5. POWERS OF THE ACT

(1) It shall be lawful for the Royal Government from time to time to-

- a) issue Regulations for the purpose of preventing either the introduction of a plant pest, or the spread of plant pests, or of any particular plant pest named. This may apply to the whole of the country or to any particular district or part thereof.
- b) declare any district, area or parcel of land described in the Regulation to be infected with a notifiable plant pest or suspected of being infected with a notifiable plant pest for the purposes of internal plant quarantine.
- c) prohibit absolutely the import into Bhutan from any country, or countries, outside Bhutan of plants, goods, plant products and soil which are likely to be a means of introducing or spreading plant pests into the country for the purposes of international plant quarantine.
- d) prescribe for the purposes of internal plant quarantine measures for the control and eradication of pests, such as isolation of areas and district, destruction and cleansing treatments, replanting provisions and the regulation of the movement of plants, plant products and soil.
- e) regulate the duties of persons appointed to carry out the provisions of this Act.
- f) declare any plant pest to be a Quarantine plant pest.
- g) declare any plant pest to be a notifiable plant pest.
- h) prescribe the establishment of quarantine stations, quarantine premises, post-entry quarantine stations and their necessary facilities and services.
- i) prescribe fees for inspections, services and treatment.
- j) declare any places in Bhutan to be points of entry for carriers, plants, plant products, packages, goods and soil.

k) appoint persons to carry out the provisions of the Act and any regulation, orders or rules made thereunder. The Royal Government may delegate authority, but not the power to delegate.

(2) The Royal Government instead of absolutely prohibiting the importation of any plant, pest, plant product, goods or soil may prescribe the conditions under which the import shall be permitted.

(3) Any article, plant, plant product, goods coming from parts outside Bhutan may be deemed to come from a place from which the import is prohibited, and may be treated accordingly, unless the owner satisfies the Royal Government otherwise.

(4) QUARANTINE OF GOODS AND OTHER ITEMS

The following plants, plant products, goods, packages, pests and soil shall be considered to be subject to plant quarantine.

a) any that have been brought into Bhutan from a place outside Bhutan,

b) any infested, or suspected to be infested, with a quarantine plant pest,

c) any that have been in contact with, or been exposed to infection with a plant pest.

(5) a) A quarantine Inspector may, by order in writing, order into quarantine any carrier, plant, plant product, goods and soil being or likely to be infested with a plant pest, and shall order treatment. When treatment has been performed and the pest risk removed they shall be released from quarantine on the payment of fees.

b) If a quarantine Inspector is of the opinion that they can not be effectively disinfested, or the contamination removed he may by order in writing cause the plants, plant products, goods and soil to be destroyed.

(6) For the purposes of this Act the decision of the Chief Plant Quarantine Officer as to the presence or identification of any plant pest shall be final, and he should communicate his decision in writing.

(7) QUARANTINE OF PLANTS

i) No person shall land any plants in any place in Bhutan except through a point of entry designated by the Royal Government. If a person is in contravention of this section of the Act he shall be guilty of an offence and the goods may be forfeited.

- ii) Any importation must be made with authority and in accordance with the Act and regulations. In the case of the import of plants, including seeds, it may be necessary to place the material in post-entry quarantine for further treatment and examination.
- iii) If the imported plants are found to be free of plant pests then they may be delivered to the importer, provided a quarantine Inspector is satisfied that there is no danger of introducing a plant pest.

6. GENERAL PROVISIONS

The Royal Government or its delegate, may make regulations, orders or rules not inconsistent with this Act, prescribing all matters which are required for this Act to function effectively, in particular for any of the following:

- a) for fixing penalties for contravention of this Act, and appropriate legal procedure if not otherwise provided,
- b) for providing for the delegation of authority under this Act,
- c) for prescribing forms and documents as appropriate for the effective administration of this Act,
- d) for prescribing treatments for the elimination of plant pests from imported plants, plant products, goods and any other materials that may be infested,
- e) for prescribing measures to be taken for the treatment of any notifiable plant pest by the owner or occupier of any land in Bhutan declared to be infested or suspected of being infested with a plant pest,
- f) for prescribing measures to be taken for the diagnosis and prevention of pests for the purposes of quarantine,
- g) for providing for the examination and treatment by quarantine Inspectors of plants and plant products for export,
- h) for providing for the examination and treatment by quarantine Inspectors of imported plants, plant products and goods,
- i) for providing for the ordering into quarantine of imported plants, goods or soil infested with a plant pest, or suspected of being infested, at the importer's expense,
- j) for providing for the import and the control of organisms of a beneficial nature for the purposes of biological control,
- k) and the handling of any specific case where a demonstrable quarantine risk exists.

7. EXCLUSION OF LIABILITY

No liability may be attached to the Royal Government for the destruction of the material brought into Bhutan in violation of the Plant Quarantine Act, or the regulations issued pursuant thereunder. Likewise the government is in no way liable for damage done, or delays incurred, by treatments or the quarantine action deemed necessary and performed under the existing rules and regulations. All such treatments are performed at the sole risk of the importer.

8. PENALTIES

Any person who violates any provision of this Act or who alters, forges, counterfeits, defaces or destroys any certificate provided for in this Act shall be deemed guilty of an offence and shall, upon conviction thereof be punished by a fine ranging between Nu. 5,000/- to Nu. 50,000/- and/or imprisonment upto 6 months or both depending on the severity of the violation committed. Provided further, that any person who, in any manner, obstructs or impedes, commits an assault upon or causes bodily harm to any duly authorised employee of the Ministry of Agriculture in the execution of any of the powers conferred by this Act shall be deemed guilty of an offence and upon conviction thereof shall be punished as per the existing laws of the land.