

# Plant Quarantine Act, 2011

Act No. V of 2011

[5 April, 2011/ 22 Chaitra, 1417]

**An Act to make provisions, in the context of international traffic in plants and plant products, for preventing the introduction of insects or pests into, and spread thereof within, Bangladesh and for the matters relating to phytosanitary and other measures incidental and ancillary thereto**

WHEREAS it is expedient and necessary to make provisions, in the context of international traffic in plants and plant products, for preventing the introduction of insects or pests into, and spread thereof within, Bangladesh and for the matters relating to phytosanitary and other measures incidental and ancillary thereto;

THEREFORE, it is hereby enacted as follows:-

## **First Chapter Preliminary**

**1. Short title and commencement.-** (1) This Act may be called the Plant Quarantine Act, 2011.

(2) It shall come into force at once.

**2. Definitions.-** In this Act, unless there is anything repugnant in the subject or context-

- (1) **“import”** means to bring anything into Bangladesh from any other country through water, land or air ways;
- (2) **“import permit”** means an official certificate issued under section 10 authorizing importation of plants or plant products, beneficial organisms or packing materials subject to compliance of phytosanitary requirements;

- (3) **“importer”** means any person, organization, agency, institution, proprietor, consignee or agent having possession, superintendence or control of any plants or plant products, beneficial organisms or packing materials which have arrived or are likely to be arrived legally in Bangladesh from any other countries;
- (4) **“infestation”** or **“infection”** means the presence of a living pest in a certain plant, plant product or in its packing materials;
- (5) **“beneficial organisms”** means fungi, bacteria, nematodes, viruses, virus-like organisms including any other similar organisms or invertebrate animals which are utilized for the control of pests, or for pollination, or for the production of commercially valuable agricultural products, and which are, from time to time to, officially declared by the Government to be beneficial to agricultural production;
- (6) **“phytosanitary certificate”** means-
- (a) in case of import, a phytosanitary certificate issued by the competent authority of the country of origin; and
  - (b) in case of export, a phytosanitary certificate issued in accordance with the provision of sub-section (3) of section 17 and rules;
- (7) **“plant quarantine officer”** means a plant quarantine officer appointed under section 8;
- (8) **“plants or plant products”** means all species of plants or plant products or including seeds any part thereof, whether living or dead, propagative material, germplasm, or any other products of plant origin, whether processed or not, which are, by their nature or by processing, capable of carrying, infecting and spreading pests;
- (9) **“containment”** means the application of phytosanitary measures in and around an infected area to prevent the spread of a quarantine pest;
- (10) **“Authority”** means the National Plant Quarantine Authority mentioned in section 3;

- (11) “**transit**” means transportation of plants or plant products, beneficial organisms or packing materials from one country to another through Bangladesh under phytosanitary measures and quarantine procedure;
- (12) “**controlled area**” means an area to be declared as controlled area under section 21;
- (13) “**packing materials**” means the materials used in packing for containing or preserving plants or plant products, pests or beneficial organisms;
- (14) “**inspection**” means visual examination of plants or plant products or packing materials to determine the presence of pests or to ensure that phytosanitary requirements are being complied with;
- (15) “**post-entry quarantine**” means, after entry into Bangladesh, official confinement of plants or plant products for conducting quarantine activities of observation, research, inspection or treatment of the plants or plant products, and prohibitions imposed by a plant quarantine officer on consignment of such plants or plant products;
- (16) “**crops**” means any agricultural, horticultural, medicinal and fiber crops, and all kinds of plants, herbs and shrubs and any type of plants or plant products having economic importance;
- (17) “**conveyance**” means all kinds of vehicles, either self propelled or not or driven by animal or human, which are able to carry plants or plant products, pests, beneficial organisms or packing materials from one place to another through land, water and airways;
- (18) “**disinfestation**” or “**disinfection**” means any scientific measures applied for the purpose of extirpating or reducing any infestation or infection by insects or pest that occurs or may occur on, in or amongst plants or plant products;
- (19) “**pests**” means any form of plants or species of living animals, strain or biotype, or any pathogenic agent other than beneficial organisms capable of injuring plants or plant products or beneficial organisms directly or indirectly, and also includes living modified organisms (LMO), alien invasive species and weeds;

- (20) “**rules**” means the rules made under the provision of this Act; and
- (21) “**export**” means taking out anything legally from Bangladesh to any other country through land, sea or airways.

## **Second Chapter**

### **National Plant Quarantine Authority and Its Functions**

**3. National Plant Quarantine Authority.-** (1) For the purposes of this Act, the Government shall establish an authority to be called the National Plant Quarantine Authority.

(2) The Director, Plant Protection Wing, Department of Agricultural Extension, shall be deemed to be the National Plant Quarantine Authority and shall exercise all the powers of the Authority under this Act until an independent National Plant Quarantine Authority is established under sub-section (1).

(3) All the officers and employees of the Plant Protection Wing, Department of Agricultural Extension shall act as the officers and employees of the Authority until a separate organization established under sub-section (1).

**4. Powers and functions of the Authority.-** The powers and functions of the Authority shall be as follows:-

- (a) to regulate the import of plants or plant products, beneficial organisms and packing materials for preventing the introduction of quarantine pests into Bangladesh from other countries;
- (b) to regulate the export of plants or plant products, pests, beneficial organisms and packing material according to the phytosanitary requirements of the importing country in consistence with international agreements;
- (c) to inspect and supervise the consignments of plants or plant products, beneficial organisms and packing materials which are in international traffic and may incidentally be used as carriers of pests;
- (d) to inspect growing plants, areas under cultivation, and plants or plant products remaining in storage or in transit and to take regulatory measures in order to prevent the outbreak and spread of pests;
- (e) to make arrangement for issuing phytosanitary certificates in accordance with the phytosanitary requirements of the importing countries;

- (f) to conduct treatment formalities for disinfection or disinfection of pests of the consignments of plants or plant products and their containers, packing materials, conservation stores or conveyances;
- (g) to regulate the introduction of beneficial organisms;
- (h) to declare any infected area as a “controlled area”;
- (i) to conduct activities regarding post-entry quarantine of plants or plant products and to implement the phytosanitary measures;
- (j) to conduct pest risk analysis and pest risk management;
- (k) to undertake regular review and revision of lists of plants or plant products, pests and beneficial organisms, the importation of which is prohibited and restricted into Bangladesh, with a view to updating and harmonizing phytosanitary measures;
- (l) to exchange technical information, opinion and report with recognized international, regional or other national plant protection organizations and to keep abreast of the latest advancements in the field of plant protection and quarantine;
- (m) to conduct activities regarding diagnostics, detection and identification of particular pests;
- (n) to conduct activities regarding promotion and control of integrated pest management in Bangladesh;
- (o) to comply with the international agreements, protocols, conventions, etc. on phytosanitary measures, of which Bangladesh is a party or a signatory country, and to conduct implementation activities thereof, and to follow, conduct and coordinate the activities regarding conservation of plant biodiversity;
- (p) to undertake risk analysis of the transboundary movements of genetically modified organisms (GMOs), living modified organisms (LMOs) and alien invasive species and their introduction and to control them;
- (q) to undertake surveys and surveillance on plant quarantine pests present in Bangladesh and to conduct plant quarantine research;
- (r) to preserve pest related information about plants or plant products within Bangladesh, information about preventive and controlling measures of their infestation and infection and information of the matters relating thereto;
- (s) to take the following measures if there is reasonable grounds to believe that an offence has been, is being or is about to be committed under this Act or any conditions of import permit or phytosanitary certificate is being breached, such as:-
  - (i) to collect extract from the register and record kept under the custody of the concerned person, and to seize and keep

- the registers under its custody for a certain period if required to prove the offence;
- (ii) to search the body of a person, or to search, examine and seize any materials carried by the person or conveyance at the time of entry and exit of Bangladesh;
  - (iii) to prohibit the distribution, sale or use of any plants or plant products for a certain period;
  - (t) to maintain and develop plant quarantine laboratories; and
  - (u) to do any other act as may be assigned to it by the Government.

**5. Delegation of powers by the Authority.-** For the purposes of this Act, the Authority may delegate any of its powers to the plant quarantine officers or any other officer working under the Authority.

**6. Prohibition or restriction on import and export of plants or plant products, etc.-** (1) The import or export of any plants or plant products which have the potential threat to introduce any pest into plants and plant products may be prohibited, restricted or otherwise controlled subject to the conditions mentioned in the import or export policy order issued by the Government, from time to time, under the Imports and Exports (Control) Act, 1950 (Act No. XXXIX of 1950).

(2) For the purposes of this Act, the powers of the customs officers to impose restrictions on import and export, from time to time, under the Customs Act, 1969 (Act No. IV of 1969) may be exercised in the case of import and export of plants and plant products and packaging materials, and accordingly the provisions of the said Act shall have effect in this behalf.

**7. Regulations of plants or plant products for quarantine.-** All the plants or plant products confined or confiscated for quarantine shall remain under the custody of the plant quarantine officer and he shall take necessary measures in the manner prescribed by rules for the purposes of quarantine of such plants or plant products.

**8. Appointment of plant quarantine officer.-** The Government may, by notification in the official Gazette, appoint such number of officers of Plant Protection Wing of

the Department of Agricultural Extension as plant quarantine officers as may be required for carrying out the purposes of this Act.

### **Chapter Three**

#### **Import and Export**

**9. Prohibition against import.-** (1) No importer shall, without an import permit, import any plant or plant product, beneficial organism, soil or packing materials into Bangladesh.

(2) The Authority may, with prior sanction of the Government, from time to time, prescribe the procedure for importing plants or plant products.

(3) The Authority may, with approval of the Government, by notification in the official Gazette, from time to time, exempt certain plants and plant products from the conditions of import.

**10. Permit and certificate.-** (1) Plants or plant products, beneficial organisms or packing materials shall not be imported into Bangladesh without an import permit and certificate issued by the Authority.

(2) Any plant or plant product, beneficial organism or packing material shall be imported into Bangladesh only through a designated point of entry, and upon notification for importation, the import permit issued against the consignment and the phytosanitary certificate issued by the National Plant Protection Authority of the exporting country shall have to be submitted to the concerned plant quarantine officer for examination.

(3) On the import permit, there shall have a description regarding the type of treatment to be applied on the plants or plant products, if imported, or other measures, including post-entry quarantine for ascertaining phytosanitary before or after importation of plants or plant products.

**11. Correction, cancellation, etc. of import permit and certificate.-** The Authority may, on reasonable grounds,-

- (a) cancel an import permit and certificate issued; and
- (b) alter or correct it at any time.

**12. Notification to plant quarantine officer.-** (1) If any person, with or without his consent, receives any plants or plant products, beneficial organisms or packing materials from outside Bangladesh, he shall notify it to the nearest plant quarantine officer.

(2) The plant quarantine officer shall, upon examination thereof, make arrangement for their release or destruction or treatment or disposal.

**13. Inspection.-** The person who transports or stores any plant or plant product, beneficial organism or packing material or is in charge of the conveyance or the store shall be bound to make the conveyance or store and its contents available for inspection and treatment, if required, in accordance with the order of a plant quarantine officer.

**14. Examination and sample collection.-** Any importer shall, on demand by a plant quarantine officer, be bound to allow him to examine and collect sample from the imported materials.

**15. Movement of container.-** No plant or plant product, pest, beneficial organism or packing material under examination of a plant quarantine officer shall be moved or no container shall be opened, except in accordance with the permission of the plant quarantine officer:

Provided that this provision shall be relaxable for an officer of customs or of the post office.

**16. Seizure of plants or plant products harbouring pests.-** If any plant or plant product, which is suspected of harbouring any pest, is imported into Bangladesh or remains in transit through Bangladesh or is transported from one part of Bangladesh to another in contravention of the provisions of this Act, the plant or plant product may be seized or, as the



case may be, refused to entry, destroyed, moved or treated, or any other necessary phytosanitary measures may be taken.

**17. Pre-export examination.-** (1) In case of export of plants or plant products, each and every consignment shall have to be examined by the plant quarantine officer.

(2) Each consignment of plants or plant products submitted for export shall be examined by a plant quarantine officer in such manner as may be prescribed by rules in accordance with the phytosanitary requirements of the importing country.

(3) If the consignment submitted deems to be fit for issuance of a phytosanitary certificate, the plant quarantine officer shall issue a phytosanitary certificate in such manner as may be prescribed by rules.

**18. Prohibition against export.-** (1) No exporter shall export any plant or plant product without a phytosanitary certificate issued by the Authority.

(2) The Authority may, with prior approval of the Government, from time to time, prescribe the procedure for exportation of plants or plant products.

(3) The Authority may, with approval of the Government, by notification in the official Gazette, from time to time, exempt certain plants or plant products from the conditions for export.

## **Fourth Chapter**

### **Containment and Eradication of Pests**

**19. Containment or eradication of pests.-** The Authority may, with prior approval of the Government, by notification in the official Gazette, restrict or prohibit the entry, introduction, sale, cultivation, multiplication or transportation of any plant or plant product, pest, genetically modified organism, living modified organism and alien invasive species, beneficial organism, germplasm, packing material or any similar material capable of harbouring and spreading pests.

**20. Declaration regarding quarantine pest.-** (1) If any pest presents, or is likely to be present or is a threat to the production of crops or to the trade in plants or plant products, to the beneficial organisms or to the natural environment, and if any pest which presents in Bangladesh is considered to be necessary for confinement or eradication, the Authority may, by notification in the official Gazette, declare such pest as a quarantine pest.

(2) The occupier or owner of any land or premises on which a pest is found and identified as, or suspected to be, a quarantine pest shall notify it to the nearest plant quarantine officer.

**21. To declare the infected area as a controlled area.-** The Authority may, by notification in the official Gazette, undertake the following measures for conducting plant quarantine activities, such as:-

- (a) to declare any area in Bangladesh, which is infected or reasonably suspected of being infected with any pest, as an infected area;
- (b) to declare any land or premises, which is infected or suspected of being infected with any pest, as an area controlled under quarantine;
- (c) to conduct treatment measures for the plants or plant products or packing materials, and the conveyances or the storage areas suspected of being infected in order to eradicate or limit the spread of pests;
- (d) to prohibit, restrict and control the cultivation and harvesting of crops for the whole or any part of an infected place under quarantine area by the

plant quarantine officer, if it appears to the officer that the pest cannot instantly be controlled or eradicated by taking phytosanitary measures, and in this behalf to prescribe the period within which such prohibition, restriction and control shall have effect.

**22. Written notice.-** (1) If a plant quarantine officer is confirmed that a quarantine pest is present at any place, the officer may issue a written notice to the owner or occupier of such place, and order the owner or occupier of the land or premises to complete necessary phytosanitary measures for eradication and containment of pests and for limiting spread thereof within a period specified in the notice.

(2) If an owner or occupier of the land or premises does not comply or is unable to comply with any condition of the notice issued under sub-section (1) within the period specified in such notice, any plant quarantine officer may enter into the land or premises and, by issuing a written notice, take necessary measures for phytosanitary.

(3) The plant quarantine officer shall regularly review the condition of the land or premises remaining under quarantine measures and when he is confirmed that the relevant pest has been eradicated and there is no necessity to continue the quarantine restrictions in respect of the land or any part thereof, he shall, by issuing a notice, convey it to the owner or occupier of the land mentioning the date from which the land is no longer under quarantine restrictions.

**23. Assistance.-** All officers of Customs, Coast Guard, Police Department, Border Guard Bangladesh, Postal Department, Port Authorities, Civil Aviation Authorities, Railway Department, Shipping Agencies, Airlines and such other institutions shall assist to prevent the activities repugnant to this Act and extend necessary cooperation to the plant quarantine officer in exercising powers and performing duties under this Act.

**24. Compensation.-** (1) Where any plant or plant product or other material is destroyed for taking necessary measures to eradicate, contain or limit the spread of a quarantine pest, the Government may, subject to the provision of sub-section (2), depending on the supply

and availability of fund, give compensation for the plants, plant products or similar other materials destroyed to the owner thereof.

(2) No person shall be entitled to get compensation under sub-section (1) if the measures has been taken for remedy, and the damage occurs due to inattentiveness of the concerned person or for his failure to comply with the instructions given lawfully or for the contravention of the provisions of this Act.

(3) Subject to the prior approval of the Government, the Authority may, by notification in the official Gazette, determine the amount of compensation by analyzing and considering its overall circumstances.

**25. In the case of seizure, notification to the owner.-** Where any plant quarantine officer takes steps to seize, keep waiting for, prohibit entry of, return, treat, remove or destroy any plant or plant product, he shall, as soon as possible, notify the owner about the steps taken and the reasons of taking such steps.

## **Fifth Chapter**

### **Offences and Punishments**

**26. Offences.-** If any person, company or organization, either personally or through any employee or agent, does any of the following acts or violates any provision of the Act, such act or violation shall be deemed to be an offence under this Act, such as :-

- (a) to import into, or export from Bangladesh any plant or plant product, pest, beneficial organism, soil or packing material prohibited under this Act;
- (b) to produce, possess, sell, advertise for sale, transport or distribute any prohibited plant or plant product, pest, beneficial organism, soil or packing material knowingly;
- (c) to contravene any condition of the notice issued under section 22;

- (d) to impede, prevent or intimidate any plant quarantine officer in performing his duties;
- (e) to refuse or neglect to comply with any order or direction made or given under this Act;
- (f) to disobey or ignore to comply with the direction given under section 13, 14 and 15;
- (g) to knowingly or recklessly provide any information which is false in material for the purpose of obtaining any permit or certificate or for the purpose of complying the provisions of this Act wrongfully; and
- (h) to alter or tamper any document submitted to or issued by the plant quarantine officer.

**27. Offences committed by the company, etc. -** Where an offence under this Act is committed by a company, every director, partner, chief executive, manager, secretary or any other officer or employee or representative who has direct involvement with the offence shall be deemed to have committed the offence unless he proves that the offence has been committed without his knowledge or he tried his level best to prevent the offence.

**Explanation:** Under this section-

- (a) “company” means any company, statutory body, commercial organization, partnership business, society or any organization consisting of more than one person; and
- (b) “director”, in case of any commercial organization, means any of its partner, or member of the Board of Directors.

**28. Trial by Magistrates.-** All the offences under this Act shall be trialed by any Judicial Magistrate of the first class or any Metropolitan Magistrate.

**29. Cognizance of Offences.-** No court shall take cognizance of an offence punishable under this Act except upon a written complaint made by any plant quarantine officer.

**30. Offences to be non-cognizable and bailable.-** All offences under this Act shall be non-cognizable and bailable.

**31. Punishment.-** (1) Any person who commits an offence referred to in section 26 shall be punished with imprisonment for a term not exceeding 2 (two) years, or with a fine not exceeding taka 5,00,000 (five lac) or with both.

(2) All money and profit accrued from the prohibited products may be confiscated.

**32. Disposal of confiscated property.-** (1) If any product is confiscated under this Act, the product, except the one which has to be destroyed, may be sold by open auction or in any other commercially profitable legal way, or may be disposed of by any other means.

(2) The money accrued from sale or disposal by any other means under sub-section (1) shall be credited to the government treasury.

**33. Special power of Magistrates for imposing punishment.-** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any Judicial Magistrate of the first class, or a Metropolitan Magistrate may impose any of the punishments referred to in section 31.

**34. Appeal against administrative orders, etc.-** (1) If a recipient of any permit or certificate is aggrieved by any written order issued under this Act, the aggrieved person may prefer appeal against the order for relief, within 15 days from the date of receiving such notice, to-

- (a) the Authority, if the order is issued by a plant quarantine officer; and
- (b) the Government, if the order is issued by the Authority.

(2) If any appeal is preferred under sub-section-(1), it shall be disposed of within a period not exceeding 90 (ninety) days from the date of preferring such appeal.

## **Sixth Chapter**

### **Miscellaneous**

**35. Fees and charges.-** The Government may, from time to time, determine fees and charges for inspection, examination or treatment of plants or plant products, beneficial organisms or packing materials and may also determine the procedure of collecting such fees and charges.

**36. Incurring expenditure.-** If an importer imports any plant or plant product, beneficial organism or packing material violating the conditions mentioned in the import permit, the importer shall incur all the expenses for the treatment or removal or destruction of the imported things.

**37. Indemnity.-** No suit, prosecution or other legal proceeding shall lie against the Authority or any plant quarantine officer or the Government on the ground that any person is affected or likely to be affected by anything which is done in good faith by the Authority or the plant quarantine officer or the Government under this Act or rules made thereunder.

**38. Removal of ambiguity.-** If any ambiguity arises in case of application of any provision of this Act for its obscurity, the Government may, by notification in the official Gazette, remove such ambiguity subject to its being consistent with the provisions of this Act.

**39. Power to make rules.-** (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of sub-section (1), such rules may also provide for the following matters, namely:-

- (a) procedures for detection of pests which are likely to be introduced into Bangladesh being transmitted with plants or plant products or packing materials;

- (b) determination of entry or exit points of importation and exportation and the matters relating to establishment of plant quarantine stations;
- (c) obligations to be complied with by the plant quarantine officers in exercising their powers;
- (d) matters relating to inspection, supervision, treatment, destruction and removal;
- (e) procedures for submission of applications for obtaining import permits or certificates, disposal thereof and for preferring appeal and disposal of appeal;
- (f) matters relating to phytosanitary certificates;
- (g) matters relating to declaration of controlled areas and payment of compensation;
- (h) matters relating to training, establishment of laboratories and security systems;
- (i) procedure of collection of fees and charges; and
- (j) any such other matters as may be required under this Act.

**40. Publication of Authentic English Text.-** After the commencement of this Act, the Government shall, as soon as possible, by notification in the official Gazette, publish an Authentic English Text of this Act:

Provided that in the event of conflict between the original Bangla Text and the English Text, the Bangla Text shall prevail.

**41. Repeal and Savings. -** The Destructive Insects and Pests Act, 1914 (Act No. II of 1914), hereinafter referred to as the said Act, is hereby repealed. Notwithstanding such repeal, any act done or action taken under the said Act shall be deemed to have been done or taken under this Act.