

LAWS OF MALAYSIA

Act 167

**PLANT QUARANTINE
ACT, 1976**

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LAWS OF MALAYSIA

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PLANT QUARANTINE ACT 1976

ARRANGEMENT OF SECTIONS

Section

- 1. Short title and application.**
- 2. Interpretation.**
- 3. Powers of Directors and appointment of Inspecting Officers.**
- 4. Penal Code.**
- 5. Powers of an Inspecting Officer to enter and inspect land, etc.**
- 6. Power to direct destruction or treatment of plants and pests or treatment of land.**
- 7. Enforcement of any action required under any notice under section 6 or order under section 12 (1).**
- 8. Penalty for default.**
- 9. Power of court to order measures.**
- 10. Isolation of land**
- 11. Duty on appearance of a dangerous pest.**
- 12. Power to take action against a dangerous pest.**
- 13. Provisions as to compensation.**
- 14. Prohibition of importation or possession of noxious plants and pests.**
- 15. Duty to destroy noxious plants.**

16. **Action where noxious plant not duly destroyed.**
17. **Power of seizure, detention and destruction of noxious plants.**
18. **Penalty.**
19. **Transfer of dangerous pest or noxious plant.**
- 19.A **General penalty.**
20. **Service of notice.**
21. **Substituted service.**
22. **Prosecution to be sanctioned by Public Prosecutor.**
23. **Regulations.**
24. **Repeal and saving.**

LAWS OF MALAYSIA

Act 167

Plant Quarantine Act, 1976

An Act to amend and consolidate the laws relating to the control, prevention and eradication of agricultural pests, noxious plants and plant diseases and to extend co-operation in the control of the movement of pests in international trade for matters connected therewith.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows :-

1.(1) This Act may be cited as the *Plant Quarantine Act, 1976*

Short title and application

(2) This Act shall apply throughout Malaysia.

Interpretation

2. In this Act unless the context otherwise requires-

“beneficial organism” means any invertebrate animal (including the eggs such animal), fungus, bacterium , virus, or any other organism which is beneficial to agriculture and which is not capable of being injurious to plants ;

“component region” mean the region constituting West Malaysia, the Federal Territory of Labuan, the State of Sabah or the State of Sarawak, as the case may be, for the purpose of the implementation of this Act ;

PLANT QUARANTINE ACT, 1976

“dangerous pest” means any pest which the Minister may by notification in the Gazette declares to be a dangerous pest for the purposes of this Act for the whole or any part of Malaysia ;

Provided that where the declaration of a dangerous pest affects the State of Sabah or Sarawak or both such States, the Minister shall consult the State Minister charged with or responsibility for agriculture of Sabah or Sarawak or both such State Ministers, as the case may be, prior to making such declaration ;

“Director” means the Director-General of Agriculture for West Malaysia, *whose responsibility extends to the Federal Territory of Labuan*, the Director of Agriculture for the State of Sabah or the Director of Agriculture for the State of Sarawak, as the case may be ;

“diseased” means bearing any pest ;

“import”, with its grammatical variation and cognate expression, means to bring or cause to bring into any component region from a place outside such region, by land, sea, or air ;

“Inspecting Officer” means an Inspecting Officer appointed under section 3 (3) ;

“isolation” means the isolation of any land for the purpose and in the manner provided under section 10 ;

“ land” includes :-

- (a) the surface of the earth and all substances forming the surface ;
- (b) the earth below the surface and all substances therein ;
- (c) all vegetation and other natural products whether or not requiring the periodical application of labor for their production and whether on or below the surface ;

PLANT QUARANTINE ACT, 1976

- (d) all things attached to the earth, or permanently fastened to any thing attached to the earth, whether on or below the surface ; and

- (e) land covered by water ;

“Minister” means the Minister charged with the responsibility for the eradication of agricultural pests and noxious plants and prevention of plant diseases ;

“noxious plant” means any plant which the Minister may by notification in the Gazette declare to be a noxious plant for purposes of this Act for the whole or any part of Malaysia and includes the seed and every part of such plant ;

Provided that where the declaration of a noxious plant affects the State of Sabah or Sarawak or both such States, the Minister shall consult the State Minister charged with the responsibility for agriculture of Sabah or Sarawak or both such State Ministers, as the case may be, prior to making such declaration ;

“occupier” includes a lessee or tenant or cultivator or person in actual possession, management or control or any land ;

“owner” in relation to any land means any person for the time being registered as the proprietor of any land under the law relating to land applicable in the respective component regions and shall include in the case of Sarawak the holder by customary rights of any land ;

“pest” means any vertebrate or invertebrate animal (including the eggs of such animal), fungus, bacterium, virus, viroid, *mycoplasm like organism*, *weed*, and or any other organism which is or is capable of being injurious to plants and includes any dangerous pest ;

PLANT QUARANTINE ACT, 1976

“plant” means any species of plant or any part thereof whether living or dead and includes the stem, branch, tuber, bulb, corn, stock, budwood, cutting, layer, slip, sucker, root, leaf, flower, fruit, seed or any other part or product whatsoever of a plant whether severed or attached but does not include any plant product that has undergone a process of heat and drying treatment ;

“soil” means any earth, ground or other naturally occurring organic and mineral material in which plants may be grown.

3.(1) The Directors shall have general supervision of all matters for purposes of carrying out or putting into effect the provision of this Act in respect of their respective component regions and the powers of the Directors conferred under this Act, shall be construed in accordance with the provision of this subsection :

Power of Directors and appointment of Inspecting Officers.

Provided that the power conferred upon the Directors under section 19 shall not be construed as if the exercise of such power by any of the Directors is confined within the component region of such Director.

(2) The Directors shall in addition to the powers conferred upon them by this Act have all the powers conferred upon an Inspecting Officer under this Act in respect of their respective component regions.

(3) The Directors may appoint any officers of the Department of Agriculture of the respective component regions to be Inspecting Officers for purposes of carrying out or putting into effect the provisions of this Act in respect of the component region for which the appointments are made and the powers conferred upon an Inspecting Officer under this Act shall be construed in accordance with the provision of this subsection :

PLANT QUARANTINE ACT, 1976

Provided that the powers conferred upon the Inspecting Officers under section 19 shall not be construed as if the exercise of such power by any of the Inspecting officers is confined within the component region of such Inspecting Officer.

4. Every Director and Inspecting Officer when acting within the scope of the power and duties under this Act shall be deemed to be public servants within the meaning of the Penal Code applicable in the respective component regions.

*Penal Code. F.M.S.
Cap. 45
Sabah Ord. 3/59.
Sarawak Cap.57*

5.(1) An Inspecting Officer may at all reasonable times, with or without assistants, instruments or thing, enter upon any land and may remain there for so long as may be reasonably necessary for the following purposes :

*Powers of Inspecting
Officer to enter and
inspect land, etc.*

- (a) to inspect and examine such land and any plant thereon to ascertain whether any noxious plant or pest is present on such land or whether such land or any plant thereon is in a condition favorable to the introduction or spread of any noxious plant or pest ; and
- (b) to remove in any way such portions of any such plant as he may deem necessary for purposes of examination or investigation.

(2) The owner or occupier of such land shall permit every Inspecting Officer to have access thereto for the purposes specified in subsection (1) and shall supply to the Inspecting Officer all such information as may be requested by him, and shall afford the Inspecting Officer such assistance as may be reasonably necessary for such purposes.

PLANT QUARANTINE ACT, 1976

*Power to direct
destruction treatment
of plants and pest or
treatment of land*

6.(1) If, on or as a result of any inspection or examination of land or plants by an Inspecting Officer, it appears to him that any plant is diseased in a manner and to an extent which might endanger other plants he may, by notice in writing under his hand, served on the owner or occupier of the land wherever such plant is found, direct such owner or occupier to take within the time specified in the notice such measures as seem to the Inspecting Officer necessary or expedient for the eradication or prevention of the spread of the either by destruction, removal or treatment in a manner to be specified in the said notice of any diseased plant or any other plant, or of any pest or tools or utensils or structure used for agricultural purposes on the land.

(2) If, on or as a result of any inspection or examination of land or plants by an Inspecting Officer, it appears to him that any land or plant is in a condition favorable to the introduction or spread of any pest he may, by notice in writing under his hand, served on the owner or occupier of the land whereon such condition exists, direct such owner or occupier to take within the time specified in the notice such measures as seem to the Inspecting Officer necessary or expedient for the eradication or prevention of the spread of the pest either by destruction, removal or treatment in a manner to be specified in the said notice of such plant or any other plant, or of any pest or tools or utensils or structure used for agricultural purposes on the land with a view to bringing the same into a condition not favorable to the introduction or spread of any pest.

(3) The cost of the measures and of the taking thereof mentioned in subsections (1) and (2) shall be defrayed by the owner or occupier of the land.

(4) Any notice under subsection (1) or (2) shall specify a time not being less than seven days from the date of the notice within which the owner or occupier of the land may make representation in writing :

- (a) to the Menteri Besar or Chief Minister, as the case may be, of the State in West Malaysia in which the land specified in the notice is situated ; or

PLANT QUARANTINE ACT, 1976

- (b) to the State Minister charged with the responsibility for agriculture of Sabah in the case of the land specified in the notice being situated in Sabah ; or
- (c) to the State Minister charged with the responsibility for agriculture of Sarawak in the case of the land specified in the notice being situated in Sarawak,

with respect to any or all of the directions specified in the notice.

(5) The Menteri Besar or Chief Minister of any State in West Malaysia or the State Minister charged with the responsibility for agriculture of Sabah or Sarawak to whom representation under subsection (4) is made may confirm, or suspend the operation of the notice or cancel the notice or make such other order as he may deem fit.

7.(1) If an owner or occupier of land on whom a notice under section 6 *or subsection (1) of section 12* has been served fails to comply with the requirements of such notice within such time as is stated in the notice for the performance of the acts thereby required to be done, the Inspecting Officer may, subject to any order made under subsection (5) of section 6, enter upon the land to which the notice refers together with such persons, instruments and things as may be necessary and may proceed to perform and do thereon all acts and things required by the said notice to be performed or done, and may recover the cost of, and all expenses incurred in, so doing from the said owner or occupier in any Court.

(2) Nothing in this section shall affect any liability of any person to prosecution and punishment under section 8 or 13.

Enforcement of any action required under any notice under section 6 or order under section 12(1)

PLANT QUARANTINE ACT, 1976

Penalty for default

8.(1) If any owner or occupier of land on whom a notice under section 6 has been served fails to comply therewith within the time therein stated, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit ;

Provided that no person shall be punished under this section for failure to comply with any notice from the time that its requirements may have been suspended or cancelled by the Menteri Besar or Chief Minister of any State in West Malaysia or the State Minister charged with the responsibility for agriculture of Sabah or Sarawak, as the case may be, under the provisions of subsection (5) of section 6.

(2) Where the Menteri Besar or Chief Minister of any State in West Malaysia or the State Minister charged with the responsibility for agriculture of Sabah or Sarawak, as the case may be, has under the provisions of subsection (5) of section 6 made an order varying the terms of any such notice, the notice as varied shall for the purposes of this section and of section 7 be deemed to be the notice under section 6.

Power of court to order measures

9.(1) Upon the conviction of any person under section 8, 11 or 13, the Court before which the person is convicted may in addition to any penalty imposed by such Court order the convicted person within a time to be fixed by the Court to take such measures as the Court may deem necessary to prevent any further commission of the offence for which the person has been convicted.

(2) If any person fails to comply with an order made under subsection (1) he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty ringgit for every day during the continuance of such offence in addition to the respective penalty under section 8, 11 or 13.

PLANT QUARANTINE ACT, 1976

Isolation of land

10.(1) Whenever the Menteri Besar or Chief Minister of a State in West Malaysia or the State Minister charged with the responsibility for agriculture of Sabah or Sarawak, on the advice of the Director is of the opinion that any plants on any land are diseased he may make an order placing such land or any part thereof in isolation for such period as may be prescribed by the order and may at any time amend or revoke such order.

(2) No person shall, without reasonable excuse, enter or leave any land to which an order made under subsection (1) refers and nothing shall be removed there from except in accordance with any directions issued by an Inspecting Officer.

(3) Any owner or occupier of land which is placed in isolation by an order issued under subsection (1) may apply to an Inspecting Officer to examine the land so placed under isolation with a view to obtaining amendment or revocation of the order and the Inspecting Officer shall within seven days after receipt of such application visit and examine the said land and submit his findings and recommendations to the Director who shall then advise the Menteri Besar, Chief Minister of the State Minister, as the case may be.

(4) Any person who knowingly or without reasonable excuse commits a breach of the provisions of subsection (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand ringgit.

PLANT QUARANTINE ACT, 1976

Duty on appearance of a dangerous pest.

11.(1) Whenever a dangerous pest, or any plant diseased by a dangerous pest, is found or appears on any land, the owner or occupier of such land shall –

- (a) as soon as he becomes aware that the same has been found or has appeared thereon forthwith give notice thereof in writing or otherwise to the Director or to any Inspecting Officer with such particulars as may be prescribed ;
- (b) carry into effect all instructions given to him by any Inspecting Officer for the destruction of the dangerous pest of plants diseased by a dangerous pest on such land ; and
- (c) render all assistance in his power the carrying out of any action taken by any Inspecting Officer for the purpose of destroying the dangerous pest on such land.

(2) Any person who commits a breach of the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

(3) Any Inspecting Officer receiving any notice in accordance with the provisions of paragraph (a) of subsection (1) shall inform the Director of such notice.

PLANT QUARANTINE ACT, 1976

12.(1) If in opinion of the Menteri Besar or Chief Minister of a State in West Malaysia of the State Minister charged with the responsibility for agriculture of Sabah or Sarawak that which respect to any land within his State the eradication, destruction, or treatment of any diseased plant which is affected by a dangerous pest or of any plant liable to become so affected is a matter of necessity or urgency or if in the opinion of the Director the safety of any plant growing in his component region is endangered by the existence of a dangerous pest on any plant growing in such region or in any other component regions or growing outside Malaysia and he considers it necessary for the prevention of the spread of such dangerous pest that any land within his component region be entirely or partly cleared of all plants or of any particular species of plants or that the eradication or destruction or any form of treatment of any plant present on any such land, is required, such Menteri Besar, Chief Minister, State Minister charged with the responsibility for agriculture, or Director, as the case may be, may forthwith serve a notice in writing on the owner or the occupier of the land connected therewith requiring any or both of them to take such measures for the eradication, destruction or treatment of any plants or clearing of the land within such time as may be specified in the notice.

*Power to take action
against dangerous
pest.*

(2) If it appears to the Menteri Besar or Chief Minister of a State in West Malaysia or the State Minister charged with the responsibility for agriculture of Sabah or Sarawak or any Director as the case may be that safety of plant cannot be properly ensured by the action directed to be taken under subsection (1), such Menteri Besar, Chief Minister, State Minister charged with the responsibility for agriculture or Director may forthwith direct an Inspecting Officer or any person to enter any specified land together with such other persons or with such instruments or things as may be necessary and to take or cause to be taken any specified action for the eradication, destruction or control of the dangerous pest, or the treatment of any plants or clearing of the land of any plants whether or not the dangerous pest is present on such land.

PLANT QUARANTINE ACT, 1976

(3) The cost of, and all expenses incurred in such eradication, destruction, control, treatment or clearing as mentioned in subsections (1) and (2) shall be defrayed by the owner or occupier of the land whereon such eradication, destruction, control, treatment or clearing is carried out and where the cost and the expenses have been incurred by any person other than the owner or occupier such person may recover the cost and expenses from the owner or occupier.

13.(1) Except as provided by subsection (2), no owner or occupier of land or other person shall be entitled to compensation for any expense incurred or damage occasioned by any order given or act done in pursuance of this Act unless such damage was occasioned by willful negligence.

*Provisions as to
compensation*

(2) The Director may, in his discretion, order that such compensation as he thinks fit shall be paid to the owner or occupier of any land who is required to destroy as a measure of precaution plant thereon not being diseased.

(3) No application for compensation shall be entertained unless it is in writing and is received in the office of the Director within three months from the date of the notice requiring the destruction of the plant, and in no case shall compensation be paid in excess of the actual value of the plant destroyed at the date of notice.

(4) If any question arises as to the value of a plant, such question shall be referred to and decided by the officer charged with the collecting of land revenue pursuant to any written law concerning land for the time being in force in the component region in which such plant is located and the decision of such officer shall be final and conclusive.

PLANT QUARANTINE ACT, 1976

(5) *If in the proper exercise of their function of administering the provisions of this Act loss or damage to plants, goods, soil or other organisms occurs, the government and every person authorized under this Act shall be exempted from all claims for compensation for such loss or damage.*

14. No person, except the Director shall -
- (a) import any noxious plant ;
 - (b) possess or keep any noxious plant or allow the same to grow in or on any land of which he is the owner or occupier ; or
 - (c) import or keep any pest :

Prohibition of importation or possession of noxious plants and pest.

Provided that the Director may in writing exempt any person from any or all of the provisions of this section subject to such conditions as he may impose in the exemption.

15. Where any noxious plant is growing in or on any land in contravention of section 14 the owner and occupier thereof shall as soon as possible cause such noxious plant to be completely and effectually destroyed by fire or by such other means as the Inspecting Officer or Director may direct.

Duty to destroy noxious plants.

16. Where default is made by any person in the complete and effectual destruction of any noxious plant which, by the provisions of section 15 he is required so to destroy, an Inspecting Officer may enter upon the land in or on which such noxious plant is growing, together with such persons and with such instruments and things as may destroy the same and may recover the cost of, and all expenses incurred in, so doing from the owner or occupier of the said land.

Action where noxious plant not duty destroyed.

PLANT QUARANTINE ACT, 1976

17.(1) Any Inspecting Officer; or any officer of customs at any place at which any noxious plants is imported or kept, in contravention of this Act or of any condition that may be imposed under section 14, shall –

- (a) in the case of an Inspecting Officer, seize and effectively destroy such plant ; and
- (b) in the case of an officer of customs, seize and detain such plant until it is placed in the charge of an Inspecting Officer who shall effectively destroy it.

(2) In this section “officer of customs” shall have the meaning assigned to it in the Customs Act, 1976.

Power of seizure, detention and destruction of noxious plants.

62/67

18. Any person who contravenes any of the provisions of section 14 or 15 shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit, notwithstanding that an Inspecting Officer may take, or may have taken action under section 16 or 17.

Penalty

19. Any person who shall knowingly and without any lawful excuse move or convey or cause to be moved or conveyed within Malaysia any dangerous pest or noxious plant shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both :

Transfer of day noxious plant.

Provided that nothing in this section shall apply to any Director or Inspecting Officer of any component region who may move or convey within Malaysia any dangerous pest or noxious plants for purposes of the destruction of such pests or plants or for any other purposes relating to any research or study to eliminate such pests or plants.

PLANT QUARANTINE ACT, 1976

19A. Any person who does or attempts to do, or causes or permits to be done, or abets, an act contrary to, or fails to comply with, the provisions of this Act or any regulation made there under shall be guilty of an offence and shall on conviction, if no penalty is expressly provided, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

General penalty

20. A notice may be served on a person for the purposes of this Act :

Service of notice

- (a) by delivering the notice to the person ; or
- (b) by delivering the notice –
 - (i) to his servant or to an adult member of his family at the person's usual or last known place of abode or business ; or
 - (ii) to his servant or agent at the person's registered office ; or
- (c) by sending the notice by post to the person –
 - (i) at his usual or last known abode or place of business ; or
 - (ii) at his registered office ; or
- (d) by substituted service in accordance with section 21.

PLANT QUARANTINE ACT, 1976

21. Where the Inspecting Officer is satisfied that the person on whom the notice is to be served cannot by the exercise of due diligence be found and service cannot be effected as set out in section 20, the service may be effected :

Substituted service

- (a) by affixing a copy of the notice in a conspicuous position –
 - (i) on the land ; and
 - (ii) on a court-house, mosque or penghulu's office or balai, or in a market or other public place, in the area in which the land is situated ; and
- (b) by publishing a copy of the notice in the *Gazette* and, if he thinks fit, in one or more of the newspapers circulating in the component region.

22. No proceeding shall be instituted in any Court against any person for any breach of any provision of this Act or of any regulations made there under except with the written sanction of the Public Prosecutor.

Prosecution to be sanctioned by Public Prosecutor.

23.(1) The Minister may from time to time make regulations for fully and effectively carrying out and giving effect to the purpose of this Act, and without prejudice to the generality of the foregoing such regulations may provide for :

Regulations.

- (a) the powers and duties of officers appointed under this Act ;
- (b) the manner of entry upon lands and the notice, if any, to be given prior to such entry ;

PLANT QUARANTINE ACT, 1976

- (c) the conduct of the examination and inspection of plants and of other proceedings authorized by this Act ;
- (d) the notification by owners or occupier of land of any plant found to be diseased with a dangerous ;
- (e) the form of notices and orders to be made by the Director or any Inspecting Officer under this Act ;
- (f) the control of, and the conditions governing the import or export of pests, beneficial organisms, plants and soil for purposes of controlling and prevention of plant pests ;
- (g) the control of any pest or plant present in Malaysia for purposes of the prevention of plant diseases ;
- (h) the obtaining from all civil, military, naval, air, police or other organizations or forces present for the time being or established in Malaysia, of assistance directed to preventing the introduction of any dangerous pest or noxious plant or to the eradication or control of such dangerous pest or noxious plant if present in Malaysia;
- (i) the imposition of fees ;
- (j) the imposition of penalties of a fine not exceeding one thousand ringgit or imprisonment of not exceeding six months or both.

PLANT QUARANTINE ACT, 1976

(2) Where the regulations made under this section would affect Sabah or Sarawak the Ministers charged with responsibility for agriculture of Sabah or Sarawak as the case may be, shall be consulted prior to the making of such regulations.

24. The Agricultural Pests and Noxious Plants Ordinance, 1953, the Sabah agricultural Pests Ordinance, and the Sarawak Agricultural Pests Ordinance are hereby repealed :

*Repeal and saving
59/53 Sabah Cap.4
Swk. 124.*

Provided that –

- (a) any appointment made under such repealed Ordinances shall, in so far as the same is not inconsistent with the provisions of this Act, be deemed to have been made under this Act ; and
- (b) any notice, direction, order, regulation or rule issued or made under such repealed Ordinances shall, in so far as the same is not inconsistent with the provisions of this Act, continue in force and have effect as if it had been issued or made under this Act.