

An Act Made to Provide for the Protection of Plants, 2059

Preamble: Whereas it is expedient to make timely legal provisions to prohibit and control the infection, arrival and also extension of the destructive infectious diseases or insects or hyper-parasite, weeds, microorganism to be exerted, in the area free from such arrival or extension, upon the bee, parasite, predator insect, silk worm, lac worm which directly help assist for the protection of agriculture bio-diversity and various plants or plant products fit for export or import;

Now, therefore, parliament has made this Act in the first year of the reign of His Majesty the King Gyanendra Bir Bickram Shah Dev.

Chapter- 1

Preliminary

1. Short title and Commencement: (1) This Act may be cited as " Plant Protection Act, 2059.
(2.) This Act shall come into force in the area and at the time prescribed by His Majesty's Government through the publication of a notification in the Nepal Gazette.
2. **Definition:** Unless repugnant to the subject or context, in this Act: -
 - a) " Plant" means all kinds of plant dead or alive or any part thereof and the expression shall also mean stem, branch, husk, propogative portion, and root, leave, fruits and seeds.
 - b) " **Plant-production**" means piece or the plant matter crushed into powder, which is not ready for use.
 - c) " **Micro Genetic Objects**" means plant, plant production and several infectious diseases to be exerted upon commercial insects, matter to be used to control insect and weeds, parasite capable of establishing themselves in the environment, hyper-parasite, predator insect, bacteria, fungi, virus, natural source including the same and also other commercial production.
 - d) " Micro-organism" means bacteria, fungus, viruses, micro plasma, pathogen and lice which cause profit or loss in the crops, weeds or commercial insects.
 - e) " Plant Protection Officer" means the plant protection officer appointed by His Majesty's Government pursuant to this Act for the purpose of this Act.
 - f) " Plant Quarantine" means plant, plant production, the act of ascertaining whether any disease is infected or not in the soil related or any other commercial insects; and the expression also means the act of putting plant, commercial or soil related insects related to plant-production in the laboratory for the purpose of carrying our experiment.

- g) " Committee" means the National Plant Quarantine Committee constituted pursuant to Clause 5.
- h) " Prescribed or as prescribed" means prescribed or as prescribed in this Act or the rule made thereunder.

Chapter-2

Provisions regarding conditions and restrictions

3. His Majesty's Government to prescribe conditions and limitations

1. His Majesty's Government may, through a notification in the *Nepal Gazette*, *impose or lift any condition or limitation in the kingdom of Nepal regarding import or export of plant or plant-production.*
 - a. To restrict, from any other country, import of any plant or plant-production, soil related matter used in the plant-production and prohibit transport from one place to another *within the country to manage the internal quarantine.*
 - b. To make a plant or plant-producer import only after acquiring license under a specific condition; and fix fees, time and quantity for such license under the National Plant Quarantine Committee.
 - c. To impose necessary conditions or restrictions regarding transportation of any plant, plant-production as well as soil related matter from one place to another within the kingdom of Nepal.
 - d. For the purpose of avoiding expansion of infections in any plant, plant-production or soil related matter concerning plant-production, micro-genetic objects, microorganism and microbes, to identify infection free area, under the recommendation of the National Plant Quarantine Committee and thereby determine the same.
 - e. To determine necessary technologies and conditions for any plant or plant-production, agriculture related equipment concerning plant-production, soil related matter, micro-genetic objects, microbes, commercial insects, means of transportation used for transport, package, or go-down.
 - f. To fix the remedies for the prohibition of import of any possible means to carry plant or soil related matter used for plant or plant-related matter.
 - g. To prescribe the route for the import or export of the plant or plant-production.
 - h. To impose area-wise restriction upon plant or plant production in a particular area for the restriction of expansion of micro-genetic objects, microorganisms, and snails.
 - i. To determine examination fee as per the necessity for the purpose of quarantine while importing any plant or plant

production, microbes, micro genetic objects and commercial insects.

- j. To restrict the arrival of infectious pathogen insects like bacteria, fungi, virus and lice for the purpose of avoiding pathogen in the kingdom of Nepal.
- k. His Majesty's Government may, through a publication in the Nepal Gazette, issue necessary order or notice to protect from disappearing the plant, plant-production, parasite, predator insect as well as the insects of commercial importance like bee, silkworm, lac insect; or for the purpose of improving their breed.

4. Establishment of Plant Quarantine Check Post:

- 1. His Majesty's Government may, through a publication of a notification in the Nepal Gazette, establish quarantine check post as per the necessity in the number as prescribed for the purpose of plant, plant-production, commercial insect import or export and for the management of internal quarantine.
- 2. The area and power of the plant quarantine check post shall be as prescribed.

5. Certificate to be acquired:

- 1. Person or firm or company etceteras to import plant, plant-production, microbes, commercial insect and etceteras pursuant to this Act shall have to submit necessary documents Plant Quarantine Check Post containing the details of the goods to be imported by him and thereby acquire a license.
- 2. Person or firm or company etceteras to export plant, plant-production, microbes, commercial insect and etceteras pursuant to this Act shall have to submit necessary documents to the Plant Quarantine Check Post containing details of the goods to be exported by him and thereby acquire a certificate of healthiness.
- 3. Person, firm, company etceteras wishing to export plant, plant-export, microbes, micro genetic objects, commercial insects and etceteras should, before obtaining the entrance license of the goods, acquire certificate as prescribed by Plant Quarantine Check Post.
- 4. Person or firm or company etceteras wishing to export plant, plant-production, microbes, micro genetic object should apply to the Plant Quarantine Check Post stating necessary details pursuant to Clause 5(2) of the Act stating the type of the plant, plant- production, microbes of commercial insect intended to export by him.

Provided that His Majesty's Government may, through the publication of a notification in the Nepal Gazette and considering the condition of the matter, provide for not to acquire such certificate under the responsibility of the concerning agency regarding a specific plant, plant-production, microbes and genetic object and commercial insect which is imported for a scientific research.

Chapter- 3

Provision on National Plant Quarantine Committee

6. **Formation of National Plant Quarantine Committee:**

- (1) A National Plant Quarantine Committee shall be formed for the purpose of providing necessary consultations to His Majesty's Government while determining national policy about plant quarantine; and providing necessary advice and suggestion to His Majesty's Government regarding the works to be carried out to protect the possible infection in the agriculture environment.
- (2) There shall be the following office-bearers in the Committee to be constituted pursuant to Sub-clause (1).
 - a) Secretary, Ministry of Agriculture and Cooperatives - Chairperson.
 - b) Director General, Department of Agriculture – Member
 - c) Director General, Department of Forestry – Member
 - d) Director General, Department of Customs - Member
 - e) Executive Director, Nepal Agricultural Research Council – Member
 - f) Program Director, Crops Protection Directorate, Department of Agriculture- Member
 - g) Chief, WTO section, Ministry of Industry, Commerce and Supply - Member
 - h) Chief, Plant Quarantine Section, Department of Agriculture – Member
3. The tenure of office of the member nominated pursuant to section (H) of Sub-clause (2) shall be two years. They shall be eligible for re-appointment.
4. Notwithstanding anything contained in sub-clause (3), His Majesty's Government may relieve them before the expiry of their tenure.
5. If necessary, His Majesty's Government may, through the publication of a notification in the Nepal Gazette, add or deduct the members of the committee.
6. If the Committee deems necessary, any indigenous or foreign expert may be invited to take part in the meeting of the Committee as an adviser.
7. Considering the workload and its gravity, the Committee may form various sub-committees.
8. The powers, duties and functions of the sub- Committees shall be as prescribed by the Committee.

7. **Appointment of plant protection Official:** (1) For the purpose of this Act, His Majesty's Government may, as per the necessity, appoint or prescribe plant protection officials or assistants in the region, center or districts.

- (3) In the condition when plant protection official pursuant to sub-clause (1) is not appointed, His Majesty's may prescribe any employee to carry out the same act.
- 8. Power of Plant protection official:** The powers of plant protection official shall include the following also.
- a) If anyone violates the condition, restrictions imposed by the notification published under clause (3), confiscate the concerned plant or plant-production or return with fine.
 - b) To confiscate the plant or plant-production to the extent whatever is stated otherwise and thereby fine the person, firm or company, if the details of the plant or plant-production in the declaration form pursuant to clause 4 are stated otherwise.
 - c) To confiscate the plant or plant-production with the destructive microbes or diseases.
 - d) To auction the confiscated plant or plant-production; destroy them as per the condition if it is necessary.

Chapter – 4

Provision regarding appeal

9. Appeal: -

- 1.) Anyone who is not satisfied with the decision of the Plant Protection Officer pursuant to clause 8, may, within 35 days of the decision, file a case with Director General of the Department of Agriculture, His Majesty's Government.
- 2.) An appeal may, within 35 days of the decision, be lodged with the appellate court against the decision of the Director General pursuant to Sub-clause (1).

Chapter – 5

Miscellaneous

- 10. Delegation of Power:** His Majesty's Government may, through a notification published in a Nepal Gazette, delegate the power vested in it pursuant to clause (3) to concerned office or officer-bearer.
- 11. Power to make Rules:** For the purpose of implementation of the objective of this Act, His Majesty's Government may make necessary rules.

12. Repeal and Savings: (1) The Plant Quarantine Check Posts established pursuant to Plant Protection Act, 2029 before the commencement of this Act shall be deemed established pursuant to this Act.

(2) Plant Protection Act, 2029 is hereby repealed.