

LAWS OF BRUNEI

CHAPTER 43
AGRICULTURAL PESTS
AND NOXIOUS PLANTS

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S 137/71

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**AGRICULTURAL PESTS
AND NOXIOUS PLANTS**

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AGRICULTURAL PESTS AND NOXIOUS PLANTS ACT

An Act to provide for the protection of plants and cultivated products from diseases and to provide for the destruction of pests and noxious plants

Commencement: 1st August 1971 [S 137/71]

1. This Act may be cited as the Agricultural Pests and Noxious Plants Act. Short title.

2. In this Act unless the context otherwise requires — Interpretation.

“dangerous pest” means any pest which His Majesty the Sultan and Yang Di-Pertuan in Council by notification in the *Gazette* declares to be a dangerous pest for the purposes of this Act;

“disease” means attacked by or infected or affected with any pest;

“inspecting officer” means any inspecting officer appointed under section 3 and includes the Director of Agriculture;

“land” includes things attached to the earth or permanently fastened to anything attached to the earth and premises;

“noxious plant” means any plant which His Majesty in Council by notification in the *Gazette* declares to be a noxious plant for the purposes of this Act and includes the seed and every part of such plant;

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

Cap. 36.

“officer of Customs” shall have the same meaning as in the Customs Act;

“owner” means the registered proprietor of any land;

“pest” includes any insect, invertebrate animal, rodent, vermin, fungus, parasite, bacteria, virus or disease, destructive or injurious, directly or indirectly, to any plant and includes the eggs of any pest;

“plant” means any species of vegetable and any part of a plant whether living or dead and includes the stem, root, leaf, flower, fruit or any part or product whatsoever of any plant whether severed or attached;

“quarantining” means isolating any land and premises for the purposes of this Act or of any rules made thereunder so that there shall be no communication or traffic with any other land and premises except in accordance with this Act or any rules made thereunder.

Appointment of inspecting officers.

3. His Majesty in Council may appoint in writing any officer of the Department of Agriculture to be an inspecting officer for the purposes of this Act.

Delegating powers.

4. Any inspecting officer may by writing under his hand delegate to any officer subordinate to him the exercise and performance of any powers or duties assigned to an inspecting officer by this Act, and such subordinate officer may thereupon exercise and perform the powers and duties so performed.

Inspecting officers to be public servants.

Cap. 22.

5. All officers to whom powers and duties shall have been delegated when acting within the scope of the powers and duties so delegated under this Act or any rules made thereunder, shall be deemed to be public servants within the meaning of the Penal Code.

Powers of an inspecting officer to enter and inspect land, etc.

6. (1) Every inspecting officer has power to enter at all reasonable times with or without assistants, upon any land whereon any plants are or have been cultivated and to remain

there so long as may be reasonably necessary for the following purposes —

(a) to inspect and examine such land and all plants thereon for the purposes of ascertaining whether any of such plants are diseased or whether such land or any plant thereon is in a condition favourable to the introduction or spread of any pest; and

(b) to remove by cutting, digging or otherwise, such portion of any plant as he may think expedient for the purposes of examination or investigation.

(2) The owner or occupier of such land shall permit every inspecting officer to have access thereto for the said purposes and shall supply to such officer all such information as may be requested by him and may be reasonably necessary for the said purposes.

7. (1) If, on or as a result of any inspection or examination of land or plants or animal product by an inspecting officer, it shall appear to such inspecting officer that any plant or animal product is diseased in a manner and to an extent which might endanger other plants, such inspecting officer may by notice in writing under his hand, addressed to the owner or occupier of the land whereon such plant or animal product is, direct him to take within a time to be stated 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, by removal or by treatment in a manner to be specified in the said notice of such diseased or any other plant, or such animal product, or of any pest or of any tools or utensils used for agricultural purposes on such land and the cost of such measures and of the taking thereof shall be defrayed by such owner or occupier of the land.

Power to
direct
destruction or
treatment of
plants and
pests or
treatment of
land.

(2) If, on or as a result of any inspection or examination of land or plants or animal product by an inspecting officer, it shall appear to such officer that any land or plant or animal product is in a condition favourable to the introduction or spread of any pest, such inspecting officer may by notice in writing

under his hand, addressed to the owner or occupier of the land whereon such condition exists, direct him to take within a time to be stated in the notice such measures as shall in the said notice be specified for the treatment of such land or plant or of any tools or utensils used for agricultural purposes on such land with a view to the bringing of the same into a condition not favourable to the introduction or spread of any pest and the cost of 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, by removal or by treatment in a manner to be specified in the said notice of such diseased or any other plant, or such animal product, or of any pest or of any tools or utensils used for agricultural purposes on such land with a view to the bringing of the same into a condition not favourable to the introduction or spread of any pest, and the cost of such measures and of the taking thereof shall be defrayed by such owner or occupier.

Right of
appeal.

8. (1) If any owner or occupier of land on whom a notice under the provisions of section 7 has been served is of the opinion that any act or thing required by such notice to be performed or done is unreasonable or unnecessary, he may, by an application in writing addressed to the Minister and despatched by registered post, or otherwise delivered, to the said Minister, within 14 days from the service of the said notice, and setting forth the grounds on which such application is based, apply for an order cancelling or varying the requirements of the said notice and shall forthwith notify the inspecting officer by whom the said notice was signed that the said application has been made.

(2) The Minister shall within 7 days of receipt of such application, confirm or suspend the operation of the notice or cancel the notice or make such other order as he may deem fit.

Enforcement
of any action
required under
any notice
under section
7 or order
under
section 13(1).

9. (1) If any owner or occupier of land on whom a notice under the provisions of section 7 or the person specified in any order made under section 13(1) has been served shall fail to comply with the requirements of such notice or order (as the case may be) within such time as is stated in the notice or order for the performance of the acts thereby required to be done, the

inspecting officer may, subject to any order made under section 8 by the Minister in respect of a notice given under section 7, enter upon the land to which the notice or order refers together with such persons with such instruments and things as may be necessary and may proceed to perform and do thereon all such acts and things required by the said notice or order to be performed or done, and may recover the cost of, and all expenses incurred in so doing from the said owner in any Court of competent jurisdiction.

(2) Nothing in this section shall affect any liability of any person to prosecution and punishment under section 10 or section 14.

10. If any owner or occupier of land on whom a notice under the provisions of section 7 has been served fails to comply therewith within the time therein stated, he shall be guilty of an offence: Penalty, a fine of \$1,000:

Penalty for default.

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 Minister under the provisions of section 8:

Provided further that where the Minister has under the provisions of section 8 made an order varying the terms of any such notice, the notice as so varied shall for the purposes of this section and of section 9 be deemed to be the notice under section 7.

11. (1) Upon the conviction of any person under section 10 or section 14 the Court before which the conviction is had may order the convicted person to take, within a time to be fixed by the Court, the measures for failure to take which such conviction was had.

Power of convicting Court to order action to be taken.

(2) If any person fails to comply with an order made under subsection (1), he shall be guilty of an offence: Penalty, a fine of \$50 for every day during which such default continues.

Duty on appearance of a dangerous pest.

12. (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 of Agriculture or to any inspecting officer with such particulars as may be prescribed; and

(b) carry into effect all instructions given to him by any inspecting officer for the destruction of the dangerous pest or diseased plants on such land; and

(c) render all assistance in his power towards the carrying out of any action taken by any inspecting officer for the purpose of destroying such dangerous pest or diseased plants on such land.

(2) Any person who commits a breach of the provisions of subsection (1) shall be guilty of an offence: Penalty, a fine of \$2,000.

(3) Any inspecting officer receiving any notice in accordance with the provisions of paragraph (a) of subsection (1) shall forthwith inform the State Agricultural Officer of the receipt of such notice.

Power to take action against a dangerous pest.

13. (1) If in the opinion of the Minister the eradication, destruction or treatment on any land 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 the Minister considers it necessary for the prevention of the spread of any dangerous pest that any land be entirely cleared of all plants or of any particular species of plant, or that the eradication or destruction or any form of treatment of any plant present on any land is required, the Minister may forthwith make an order in writing directing the eradication or destruction or prescribing the treatment of such plant, or the clearing of such land by any person specified in such order and in accordance with any instructions contained in such order, and the cost of, and all

expenses incurred in such eradication, destruction, clearing or treatment shall be defrayed by the owner or occupier of the land whereon the action required by the order is taken and where such cost or expenses have been incurred by any person other than the owner or occupier such person may recover such cost and expenses from the owner or occupier in any Court of competent jurisdiction.

(2) If in the opinion of the Minister the safety of any plant growing in Brunei Darussalam is endangered by the existence of a dangerous pest on the said plant or on any other plant, and it appears to him that the safety of such plant cannot properly be ensured by the action ordered to be taken under subsection (1) by any individual owner or occupier of any land the Minister may forthwith direct an inspecting officer to enter upon any specified land together with such persons with such instruments or things as may be necessary and to take or cause to be taken any action authorised by the Minister for the eradication, destruction or control of such dangerous pest, whether or not such dangerous pest is present on such land.

14. If any owner or occupier of land on whom an order under the provisions of section 13(1) has been served fails to comply with the requirements thereof, he shall be guilty of an offence: Penalty, imprisonment for 6 months and to a fine of \$2,000.

Penalty for default.

15. (1) Where any plants have been destroyed in pursuance of an order, or as a result of any action taken under section 13, His Majesty in Council may, in his discretion, direct the payment to such persons as he may specify of such sum as he considers reasonable as compensation.

Provisions as to compensation.

(2) No application for compensation shall be entertained unless it is in writing and is received in the office of the Director of Agriculture within 3 months from the date of the order requiring the destruction of such plant.

(3) Subject to this section no owner or occupier of land nor any other person be entitled to compensation for any expense incurred or damage occasioned by any notice or order

given or act done in pursuance of this Act or any rules made thereunder unless such damage was occasioned by negligence or maliciously, and without reasonable cause.

Prohibition of importation or possession of noxious plants.

16. No person except the Director of Agriculture, or a person authorised by him in writing in that behalf and subject to such conditions as the Director of Agriculture shall see fit to impose, shall —

(a) import any noxious plant; or

(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.

Duty to destroy noxious plants.

17. Where any noxious plant is unlawfully growing in or on any land the owner and occupier thereof shall as soon as possible cause such noxious plant to be completely and effectually destroyed by fire or any other means.

Action where noxious plants not duly destroyed.

18. Where default is made by any person in the complete and effectual destruction of any noxious plant which, by the provisions of section 17 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 with such instruments and things as may be necessary for the purpose of destroying, and 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 in any Court of competent jurisdiction.

Power of customs officers to destroy noxious plants.

19. Any officer of customs and any inspecting officer at any place at which any noxious plant is unlawfully imported may seize and destroy the same and no person shall be entitled to any compensation for any noxious plant so seized and destroyed.

Penalty.

20. Any person who contravenes any provision of section 16 or 17 shall be guilty of an offence: Penalty, a fine of \$1,000, notwithstanding that an inspecting officer may take, or may have taken, action under section 18.

Criminal transfer of dangerous pests or noxious plant.

21. Any person who shall knowingly move or convey or cause to move or to be moved or conveyed within Brunei Darussalam any dangerous pest or noxious plant shall be guilty

of an offence: Penalty, imprisonment for 6 months and a fine of \$2,000.

22. (1) Any notice or order issued or made under this Act may be served in the manner following, namely —

Serving of notices and orders.

(a) if the person to whom it is addressed is within Brunei Darussalam, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him; or

(b) if the notice or order cannot be served as described in paragraph (a), it may be sent by registered post addressed to him at his last known address; or

(c) if the notice or order cannot be served as described in paragraphs (a) or (b), or if there is no known owner or occupier of the land, it may be posted up in some conspicuous place on the land.

(2) It shall not be necessary in any such notice or order to name the owner or occupier of the land if the land to which the notice or order relates is therein described or identified by name or otherwise.

(3) Every such notice or order shall be in the Malay language or in such other language as may, in the opinion of the officer signing the notice or order be likely to render it intelligible to the person on whom it is to be served:

Provided that no notice or order shall be deemed to be bad or insufficient by reason merely of the language wherein the same is rendered.

23. No proceedings shall be instituted in any Court against any person for any breach of any provision of this Act or of any rules made thereunder except with the written sanction of the Public Prosecutor.

Prosecutions to be sanctioned by Public Prosecutor.

24. (1) His Majesty in Council may from time to time make rules for fully and effectively carrying out and giving effect to

Rules.

the purpose of this Act, and, without prejudice to the generality of the forgoing, such rules may provide for —

(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;

(c) the conduct of the examination and inspection of plants and of other proceedings authorised by this Act;

(d) the notification by owners or occupiers of land of any plant found to be diseased with a dangerous pest;

(e) the form of notices, orders and applications under this Act;

(f) the control of, and the conditions governing, the import or export of plants or pests;

(g) the quarantining of land;

(h) the control of any plant or pest present in Brunei Darussalam;

(i) the fees to be charged;

(j) penalties, not exceeding a fine of \$1,000 for any contravention or failure to comply with any of the provisions of any rules made under this section or with the restrictions or conditions of any licence granted under any such rules.

(2) All rules made under this Act shall be laid before the Legislative Council as soon as may be after they are made, and, if a resolution is passed within the next subsequent 4 months after any such rules are so laid annulling the rules or any part thereof as from a specified date, such rules or such part thereof, as the case may be, shall thereupon be void as from such date, but without prejudice to the validity of anything previously done thereunder or to the making of new rules.

SUBSIDIARY LEGISLATION

NOTE. There is no Subsidiary Legislation.