# **PAKISTAN PLANT QUARANTINE ACT, 2006**

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| **EXISTING** | **PROPOSED** | **JUSTIFICATION** |
| Whereas it is expedient to give effect in Pakistan to the International Plant Protection Convention, 1951 and to provide for matters connected therewith | Whereas it is expedient to give effect in Pakistan to the New Revised Text of International Plant Protection Convention, 1997 (IPPC, 1997) and to provide for matters connected therewith | IPPC, 1951 has since been amended and IPPC, 1979 is in force while the New Revised Text of IPPC, 1997 is about to come in to force. |
| It is hereby enacted as follows:- | It is hereby enacted as follows:- | Retained. . |
| **1. Short title, extent and commencement** | **1. Short title, extent and commencement** | Retained. |
| 1. This Act, may be called the Pakistan   Plant Quarantine Act, 1976   1. It extends to the whole of Pakistan 2. It shall come into force at once | (a) This Act, may be called the Pakistan  Plant Quarantine Act, 2006   1. It extends to the whole of Pakistan 2. It shall come into force following coming into entry in force of the IPPC, 1997. | Retained, except for change in the year of Act and coming into force subject to IPPC, 1997. |
| (Not available) | **2. Scope** | The range of elements and phenomena covered by the Act, have been elaborated. |
| (Not available) | The provision of this Act, shall be for plants (living or dad), plant parts, plant products, material of plant origin (semi processed or processed), cultivated area, orchards, plantations, greenhouses, glasshouses, nurseries, laboratories, wild flora, stores, processing and packing facilities, packing and packaging material, container yards and wharves, conveyances, shipping containers, soil and planting material, post-entry quarantine, treatment facilities, material or objects capable of harboring or spreading plant pests, plant pests (bacteria, fungi, viruses, mycoplasma and allied entities, mollusks, nematodes and weeds), biological control agents, bio-safety, and Phytosanitary service providers.  The Act, shall also include the living modified organisms and preparations thereof considered plant pest or capable of harboring and spreading plant pest, alien invasive species that are plant pests or affect plant products and environment. Phytosanitary protocol. and measures, pre-clearance program (local and foreign) pest risk analysis, disinfestation method development, compliance assessment, surveillance, pest risk analysis, detention, emergency action, national plant protection organization (Department of Plant Protection), courier, post, analytical methods, plant import health standard development, international and regional standards for Phytosanitary measures, inspection procedures, pest free areas, places and sites of production, import, export, transit transport, tolerance, pre-shipment inspection, WTO-SPS notification, IPPC and International Phytosanitary Portal (IPP) contact point and SPS enquiry point. | Inclusion necessary to give effect to the IPPC, 1997 and to deal with the related matters. |
| **2. Definitions** | **3. Phytosanitary Terms** | Replacement as per Glossary |
| In this Act, unless is anything repugnant in the subject or context   1. “Convention” means the International Plant Protection Convention, 1951. 2. “Crop” includes all agricultural or horticultural crops and all trees, bushes, grass or plants 3. “Import means the bringing or taking by sea, land or air across and customs frontier as defined by the Federal Government and includes transportation by any means from one Province to another or from one place to another within a Province. 4. "Infection" means infection by any insect, fungus,   or other pest injurious to a crop or plant;   1. "Pest" means any living stage of any or all insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, fungi, bacteria, or other parasitic plants or reproductive parts thereof, virus or any organism, or any infectious substance which may directly or indirectly injure or cause disease to any crop or plant; and 2. "Plant" means all species of plants or parts thereof whether living or dead including stems, branches, tubers, bulbs, corm, stock, bud wood, cutting, layers, slips, suckers, roots, green scum on stagnant pools, leaves, flowers, fruits and seeds. | These shall be according to the “Glossary of Phytosanitary terms”, a reference standard: International Standard for Phytosanitary Measures, (ISPM) no.5 of the Food and Agriculture Organization, Rome published in the year 2002 (Glossary) and amended time to time. |  |
| **3. Power to prohibit or regulate import of certain**  **Articles** | **4. Power to prohibit or regulate import, transit,**  **transport and export of certain articles** | . |
| 1. The Federal Government may by notification in the official Gazette, restrict or otherwise regulate, subject to such conditions as it may think fit to impose, import of any article or class of aticles likely to cause infection to any crop or plant, or of any pest generally or any class of pests. 2. A notification under this section may specify any article or class of articles or any pest or class of pests either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise. 3. Any condition imposed under a notification under this section may require;   (a) Compliance with the provision of the Convention  (b) Examination by authorized persons of goods, articles of plant origin and pests brought in or to be taken out  © Obtaining of certificate of non-infection; and  (d)Treatment or detention, confiscation and  destruction of infected goods, or articles of plant  origin | 1. The Federal Government may by notification in the Gazette of Pakistan and World Trade Organization (notification) prohibit, restrict or otherwise regulate, subject to such conditions as it may think appropriate to regulate import, transit, export and transport of any plant, plant part, plant product, material of plant origin, any article, object or material either itself a plant pest or capable of harboring or spreading plant pest and injurious to plant wealth and environment 2. A notification under this section may specify any article as at Section 4 (1) either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported, transited, transported and exported or otherwise. 3. Any condition imposed under a notification under this section may require;   (a) Compliance with the provision of the  IPPC, 1997  (b) Examination by authorized persons of articles as at Section 4 (1), pests brought in or to be taken out  c) Obtaining of certificate of non-infestation; and  (d)Treatment or detention, confiscation and  destruction of infested articles as at Section 4 (1) | Amended to accommodate new elements and phenomena that have emerged following institution of the World Trade Organization and its agreements to which Pakistan is asignatory. |
| **4. Operation of notification under section 3.** | **5. Operation of notification under section 3.** | Retained. |
| A notification under section 3 shall operates as if it has been issued under section 16 of the Customs Act, 1969 (IV of 1969), and the officers of Customs shall have the same powers in respect of any goods, articles of plant origin or pests in respect of which such a notification has been issued as they for the time being in respect of any article the importation of which is prohibited or restricted under the said Act, and all the provision of that Act, shall have effect accordingly | A notification under Section 4 shall operates as if it has been issued under Section 16 of the Customs Act, 1969 (IV of 1969), and the officers of Customs shall have the same powers in respect of articles as at Section 4(1) of which such a notification has been issued as they for the time being in respect of any article the importation, transit, export and transport of which is prohibited or restricted under the said Act, and all the provision of that Act, shall have effect accordingly. | Amended to accommodate elements as at Section 4(1). |
| **5. Goods and articles import or transportation**  **of which prohibited not to be carried** | **6. Articles import, transit, export or transportation of**  **which is prohibited not to be carried** | Amended. |
| When a notification has been issued under section 3, then notwithstanding anything contained in any other law for the time being in force, the person responsible for the booking of goods or parcels at any port, railway station, airport or other place;   1. where the notification prohibits import, shall refuse to receive for carriage at, to forward, of knowingly allow to be carried by sea, air, land, rail or other carrie from that port, station airport or place anything of which the import has been prohibited; and 2. where the notification imposes any condition upon, shall so refuse unless the prescribed documents showing that the conditions have been fulfilled are produced. | Articles: import, transit, export or transportation of which is prohibited shall not be carried. When a notification has been issued under Section 4 then nothing withstanding anything contained in any other law, executive order or policy, for the time being in force, the person responsible for the booking of articles as at Section 4 (1) at any place within or out side the country:   1. Where the notification prohibits import, transit, export and transport of the articles, shall refuse to receive for carriage or to forward to be carried by any mean, and 2. When the notification imposes any condition of import, transit, export or transport, shall refuse for carriage unless the documents, stating that the prescribed conditions have been full filled, are sighted. | Comprehension ,  clarity. |
| **6. Penalty.** | **7. Civil Penalty and user fees** | **Amended** |
| Whoever contravenes or attempts to contravene any of the provision of this Act, or of any rules made or notification issued hereunder, shall, without prejudice to any confiscation of penalty to which he may by liable under the provision of the Customs Act, 1969 (IV of 1969), as applied by Section 4, be punishable with fine which may extend to five hundred rupees and, extend t six months, or with fine which may extend to two thousands rupees or with both. | Whenever, violation, contravention or attempt of contravention of a provision or provisions of this Act, or of Pakistan Plant Quarantine Rules (Rules) framed there under, shall be punishable with fine which may extend to Rs 20000 and or with imprisonment up to six months; this being without prejudice to any confiscations or penalty to which may be liable under the provision of the Customs Act, 1969 (iv of 1969), as applied by Section 5. The Department shall charge for Phytosanitary services, certification and registration (user fees) and impose penalties for violation of the provision or provisions of the Act.  MINFAL in consultation with the Law Division of the Federal Government, shall publish schedule of user fees fines through a notification | Updating, clarity. |
| **7. Cognizance of offence.** | **8. Cognizance of offence** | Retained. |
| No court shall take cognizance of any offence under this Act except upon complaint in writing made by any officer authorized by the Federal Government in this behalf. | No court shall take cognizance of any offence under this Act except upon complaint in writing made by any officer authorized by the Federal Government in this behalf. | Retained. |
| **8. Indemnity.** | **9. Indemnity.** | Retained. |
| No suit, prosecution or other legal proceeding shall be against any person for anything, which is in good faith done or intended to be done under this Act. | No suit, prosecution or other legal proceeding shall lie against any person for anything, which is in good faith done or intended to be done under this Act. | Retained. |
| **9. Delegation of powers** | **10. Delegation of powers** | Retained |
| The Federal Government may delegate to a Provincial Government, or to any officer or authority such Government, any of its powers under this Act, insofar as it relates to the prohibition or restriction of bringing or taking into or out of any place from or to another replace within a Province or to the transportation from one place or to another place within a Province or to the sale of articles as at Section 3 (1) imported in contravention of any of this provision of this Act. | The Federal Government may delegate to a Provincial Government, or to any officer or authority such Government, any of its powers under this Act, insofar as it relates to the prohibition or restriction of bringing or taking into or out of any place from or to another replace within a Province or to the transportation from one place or to another place within a Province or to the sale of articles as at Section 4 (1) imported in contravention of any of the provision of this Act. | Amendment in Section number 4(1) instead of 3(1) |
| **10. Power to make rules** | **11. Power to make rules** | Retained. |
| 1. The Federal Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act. 2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;-    1. The method and manner of examination and treatment of goods and articles of plant origin likely to cause infection to any crop or plant;    2. The form of certificates of non-infection    3. The documents to be produced before goods to articles of plant origin are accepted for carriage; and    4. The fees to be levied under this Act. | (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act.  (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-  (a) The method of inspection and disinfestation of articles as at Section 4 (1) likely to cause harm to plant wealth and environment  (b) The form of certificate of non-infestation, pest free  areas, places and production sites, the certificate of  disinfestation, origin, import permit, release order  confiscation and destruction order, anchorage permit,  Phytosanitary certificate for export, Phytosanitary certificate for re-export, disinfestation/treatment certificates, service provider registration form, processing, storages and packing facilities registration form, shipping container and conveyances inspection report forms,  (c) The documents to be produced before articles as at  Section 4 (1) are accepted for import, transit, export and transport/carriage | Retained.  Retained.      Amended to accommodate new elements and phenomena.  --Do--  --Do-- |
| (Not available) | **12. Standards for Phytosanitary measures.** | Included to accommodate the new element drawn from the WTO-SPS Agreement on the application of sanitary and phytosanitary measures and obligations under the IPPC, 1997 |
| (Not available) | The Department shall, participate in the  Development, adoption and application of  International and regional standards of  Phytosanitary measures | As appropriate |
| (Not available) | **13. Relationship with International agreements**  **and national laws and polices** | Included for harmonization, international cooperation and improvement in the national phytosanitary system. |
| (Not available) | The actions of the Department shall be consistent  with the provisions of relevant international  protocols accepted and adopted by Government of  Pakistan and national laws and policies. | As appropriate |
| (Not available) | **14. Registration of phytosanitary service providers,**  **clearing and forwarding agents of agricultural**  **material and companies responsible for loading**  **and unloading at the wharves, storage,**  **processing, disinfestation and packing facilities,**  **shipping containers and conveyances.** | Addition to accommodate items not previously covered by the existing Act. |
| (Not available) | The Department will assess the operator’s establishments for manpower, machinery, equipment and suitability to cater to the requirements under the phytosanitary regulations, protocols and standards. The Department will register upon fulfilment of requirements by the respective applicants. | As appropriate |
| **11. Repeal** | **15. Amendment** | As appropriate |
| The Destructive Insects and Pests Act, 1914 (II of 1914), is hereby repealed. | The Pakistan Plant Quarantine Act, 1976 is hereby amended. | As appropriate. |