

2022/06/07

**OBJECTS AND REASONS**

This Bill would make provision for the protection of agricultural products and matters related thereto.

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*COMMERCIAL QUANTITIES*



## **BARBADOS**

A Bill entitled

An Act to make provision for the protection of agricultural products and matters related thereto.

ENACTED by the Parliament of Barbados as follows:

**Short title**

1. This Act may be cited as the *Protection of Agricultural Products Act, 2022*.

**Interpretation**

2. In this Act,

“agricultural products” means all products grown in or on land that is produced for the purpose of human consumption or for forage products cultivated for animals and includes

- (a) sugar cane, roots, tubers, bulbs, vegetables, fruits, culinary herbs, trees, plants, seeds, or products thereof;
- (b) products of the following industries:
  - (i) apiculture;
  - (ii) aquaculture;
  - (iii) dairy;
  - (iv) horticulture;
  - (v) hydroponics;
  - (vi) livestock;
  - (vii) permaculture;
  - (viii) poultry; and
  - (ix) vermiculture;
- (c) planting material;
- (d) fresh water fish for human consumption.

“apiculture” means products including honey, beeswax, royal jelly, bee pollen, bees, propolis, nucs and queens;

- “aquaculture” means the farming of aquatic animals with some manner of intervention in the rearing process to enhance production such as regular stocking, feeding and protection from predators;
- “commercial quantities” means the value or the quantity of agricultural products as set out in the *Schedule*;
- “commercial-scale” means an agricultural enterprise that meets the minimum requirements defined by the Ministry responsible for Agriculture;
- “dairy” means milk or any product including butter and cheese, derived from dairy animals;
- “dairy animals” includes cattle, sheep and goats, from which the products are intended for human consumption, or which are kept for raising replacement dairy animals;
- “delivery note” means a physical, electronic or digital transaction record issued by the owner of agricultural products to a courier for conveyance, which contains the date of conveyance and the names of the owner and courier;
- “horticulture” means the cultivation of fruits, vegetables, flowers and ornamental plants or shrubs;
- “hydroponics” means the growing of plants without soil, in nutrient solutions with or without the use of an artificial medium to provide mechanical support;
- “livestock” means any animal kept for the production of meat or food, wool, skins or fur, for labour or for the purpose of its use in the farming of land or carrying on of any agricultural activity;
- “permaculture” means a method of agricultural production that integrates the use of renewable natural resources to create efficient self-sustaining ecosystems;
- “police officer” means a member of the Police Service;

“poultry” means any fowl, chicken, turkey, duck, goose or other bird commonly reared for the purpose of human consumption and the eggs obtained from any such bird;

“receipt” means any physical, electronic or digital transaction record issued by a seller of agricultural products to a purchaser;

“vehicle” has the meaning assigned to it by the *Road Traffic Act*, Cap. 295.

### **Transactions involving agricultural products**

3.(1) A person shall not purchase or in any other manner obtain possession of commercial quantities of agricultural products unless, at the time of purchase or of obtaining possession of the agricultural product, the person has obtained a receipt, delivery note or bill of lading from a person who is seeking to sell or dispose of the agricultural products.

(2) A person shall not sell or otherwise dispose of commercial quantities of agricultural products unless at the time of sale or disposal, the person issues a receipt, delivery note or bill of lading to the purchaser or to any other person to whom possession of the agricultural products is given.

(3) A person who has purchased or in any other manner obtained possession of commercial quantities of agricultural products or their representative shall retain the receipt, delivery note or bill of lading for the agricultural products as proof of purchase or conveyance and shall produce it at the request of a police officer.

(4) Where a person referred to in subsection (3) is unable to produce the receipt, delivery note or bill of lading for the agricultural products at the request of the police officer pursuant to subsection (3), that person shall produce the receipt, delivery note or bill of lading for the agricultural products at the police station designated by the police officer within 24 hours of the date on which he was required to produce it.

(5) A police officer may request additional evidence where he is not satisfied with the proof of purchase presented pursuant to subsections (3) or (4).



(6) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

(7) A person who contravenes subsection (2), (3) or (4) is guilty of an offence and is liable on summary conviction to a fine of \$10 000.

#### **Producer of agricultural products**

4.(1) A person or his representative who is in possession of commercial quantities of agricultural products that he has produced shall provide a delivery note or any other evidence as proof of ownership and shall produce it at the request of a police officer.

(2) Where a person referred to in subsection (1) is unable to produce the delivery note or any other evidence as proof of ownership of the agricultural products at the request of the police officer pursuant to subsection (1), that person shall produce the delivery note or any other evidence as proof of ownership of the agricultural products at the police station designated by the police officer within 24 hours of the date on which he was required to produce it.

(3) A police officer may request other evidence where he is not satisfied with the delivery note or the proof of ownership presented pursuant to subsection (1) or (2).

(4) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 5 years or to both.

#### **Importer of agricultural products**

5.(1) A person or his representative who has imported commercial quantities of agricultural products or his representative shall retain

- (a) the bill of lading in respect of the agricultural products imported;
- (b) the receipt for the imported agricultural products;
- (c) the delivery note for the imported agricultural products; or

(d) any other evidence

as proof of ownership of the imported agricultural products.

(2) Where a police officer requests the production of proof of ownership of imported agricultural products under subsection (1), any of the following forms of evidence may be produced as proof of ownership:

(a) bill of lading in respect of the agricultural products imported;

(b) receipt for the imported agricultural products;

(c) delivery note for the imported agricultural products; or

(d) any other evidence of ownership

shall be produced as proof of ownership of the imported agricultural products at the request of a police officer.

(3) Where a person referred to in subsection (2) is unable to produce the bill of lading, receipt, delivery note or any other evidence as proof of ownership of the imported agricultural products at the request of the police officer pursuant to subsection (2), that person shall produce the bill of lading, receipt, delivery note or any other evidence as proof of ownership of the imported agricultural products at the police station designated by the police officer within 24 hours of the date on which he was required to produce it.

(4) A police officer may request other evidence where he is not satisfied with the authenticity of the proof of ownership presented pursuant to subsection (2) or (3).

(5) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 5 years or to both.

### **Falsifying inspection records**

6. A person who forges or produces for inspection a false bill of lading, receipt or delivery note for commercial quantities of agricultural products is

guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 5 years or to both.

### **Stolen agricultural products**

7.(1) A person who steals any quantity of agricultural products is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for 5 years or to both.

(2) A person who is in possession of commercial quantities of agricultural products and fails to produce, at the request of a police officer, or within 24 hours of the date of that request,

- (a) a receipt, delivery note, bill of lading; or
- (b) proof of ownership or of lawful possession,

or otherwise satisfy a police officer that he is in lawful possession of the agricultural products, is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for 5 years or to both.

(3) A police officer may designate the police station where the person referred to in subsection (2) shall produce the proof of ownership or of lawful possession.

(4) A police officer may request additional evidence where he is not satisfied with the proof of ownership or lawful possession presented pursuant to subsection (2) or (3).

### **Enforcement**

8.(1) A police officer may, without warrant, arrest and charge a person with an offence under this Act.

(2) Where a police officer has reasonable grounds to suspect that a person has contravened the provisions of this Act, the police officer may without a warrant stop a vehicle and, upon informing the person in charge of the vehicle of the

purpose of the stop, may search the vehicle or search any parcel or package of any kind found in the vehicle.

(3) Where in the course of examining a vehicle pursuant to subsection (2), a police officer discovers commercial quantities of agricultural products in the vehicle, the police officer, pursuant to section 7, may request the person in charge of the vehicle to produce a receipt, delivery note or bill of lading or give other proof of ownership or of lawful possession.

(4) Where the person in charge of a vehicle referred to in subsection (3) fails to

- (a) produce a receipt, delivery note, bill of lading;
- (b) give other proof of ownership or of lawful possession; or
- (c) satisfy the police officer that he is otherwise in lawful possession of the commercial quantities of agricultural products,

the police officer may arrest and charge that person pursuant to subsection (1) and section 7.

(5) Where a police officer makes an arrest pursuant to subsection (1) or (4), the police officer may seize

- (a) the agricultural product that is in the possession of the person who is arrested; and
- (b) the vehicle where the agricultural product was found at the time of the arrest.

(6) A person who

- (a) fails to comply with the directions given by a police officer while carrying out his duties pursuant to this Act; or
- (b) obstructs a police officer in the execution of his duties pursuant to this Act,

is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 5 years or to both.

**Trial**

9.(1) As soon as may be practical after the arrest of a person for committing an offence under this Act, the person shall be brought before the magistrate in whose jurisdiction the offence was committed.

(2) Any agricultural products seized pursuant to section 8 shall be delivered to the Chief Agricultural Officer who shall keep the agricultural products pending the decision of the magistrate pursuant to subsection (1) and subject to section 11.

**Restitution**

10. A magistrate may order that any agricultural products alleged to have been obtained contrary to the provisions of this Act, be delivered to the person who appears to the magistrate to be the owner of the agricultural products.

**Sale of perishable agricultural products**

11.(1) Notwithstanding sections 9 and 10, where the agricultural products seized pursuant to this Act are likely to perish before the trial of the offence, the agricultural products shall be delivered to the Chief Agricultural Officer who shall sell the agricultural products.

(2) Where a sale cannot be conducted pursuant to subsection (1), the Chief Agricultural Officer shall dispose of the agricultural products in the manner that he thinks fit.

(3) The Chief Agricultural Officer shall deliver to the clerk of the magistrate's court where the offence referred to in subsection (1) is to be tried

(a) a certificate containing the following information:

(i) photographs or video of the agricultural products received by him;

- (ii) a list of any unique identifiers on the agricultural products received by him;
  - (iii) the quantity of agricultural products received by him;
  - (iv) the quantity of agricultural products sold;
  - (v) the amount realized by the sale;
  - (vi) the date of the sale;
  - (vii) where the agricultural products are disposed of otherwise than by sale, the method and date of disposal; and
- (b) the proceeds of the sale less any amount that is applied to satisfy the conduct of the sale.
- (4) A certificate referred to in subsection (3) shall be admissible in evidence as proof of the matters therein stated without proof of the signature of the Chief Agricultural Officer.
- (5) Where a person, brought before the magistrate, pleads guilty to or is convicted of an offence under this Act in respect of which the agricultural products were seized and sold or otherwise disposed of in accordance with subsections (1) and (2), the magistrate may
- (a) in the case of a sale, order that compensation be paid from the proceeds of the sale to the person who appears to the magistrate to be the owner of the agricultural products; or
  - (b) in a case where the agricultural products were disposed of otherwise than by sale, order the accused to pay the informant or complainant such compensation not exceeding the net market value of the agricultural products.
- (6) An order for payment of compensation made under subsection 5(b) shall not be for an amount in excess of \$10 000.
- (7) An award of compensation referred to in subsection (6) shall not be a bar to any civil proceedings for damages where the net market value of the

agricultural product is in excess of \$10 000, but any compensation awarded shall be taken into account for the purpose of awarding damages.

(8) Where agricultural products are sold in accordance with subsection (1) and the owner cannot be ascertained, the proceeds of the sale shall be paid into the Consolidated Fund.

#### **Amendment of Schedule**

12. The Minister may amend the *Schedule* by order.

#### **Regulations**

13. The Minister may make regulations generally for the purpose of giving effect to this Act.

#### **Repeal**

14. The

(a) *Praedial Larceny Prevention Act, Cap. 142A*; and

(b) *Protection of Agricultural Products and Livestock Act, 2017*  
(Act 2017-27)

are repealed.

#### **Commencement**

15. This Act shall come into operation on a date to be fixed by proclamation.

**SCHEDULE***(Sections 2 and 12)***COMMERCIAL QUANTITIES****PART I****COMMERCIAL VALUE**

<b>Item</b>	<b>Value</b>
Commercial quantity of agricultural products	In excess of \$200

**PART II****COMMERCIAL QUANTITY**

<b>Item</b>	<b>Quantity</b>
	In the amount of or in excess of
Roots, tubers, bulbs	25 Kg
Fresh poultry, livestock, fish products	20 Kg
Vegetables, fruits	15 Kg
Honey, sugar cane	5 Kg
Culinary herbs	2 Kg
Fresh milk	20 L
Eggs	180 eggs
Live livestock	1 animal
Live poultry	10 birds



Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2022.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
, 2022.

**President**