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2nd Session 1971-72



Regulated Equipment for Agricultural Projects (Special Provisions) Act, No. 26 of 1971

Date of Assent : June 28, 1971

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*Regulated Equipment for Agricultural
Projects (Special Provisions)
Act, No. 26 of 1971*

L. D.—O. 28/70.

AN ACT TO PROVIDE FOR THE VESTING IN THE GOVERNMENT UNDER CERTAIN CIRCUMSTANCES OF MOTOR VEHICLES, AGRICULTURAL PLANTS, MACHINERY OR EQUIPMENT IMPORTED FOR AGRICULTURAL PROJECTS, FOR THE PAYMENT OF COMPENSATION THEREFOR, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent : June 28, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Regulated Equipment for Agricultural Projects (Special Provisions) Act, No. 26 of 1971.

Short title.

2. (1) The provisions of this Act shall apply to any motor vehicle, agricultural plant, machinery or equipment (in this Act referred to as a "regulated equipment") imported by any person under the authority of an import licence issued to such person on or after January 1, 1965, upon the recommendation of an officer authorized by the competent authority, on an application made by such person that such regulated equipment is necessary in connection with or for the purposes of any agricultural project.

Motor vehicles, agricultural plants, machinery and equipment to which this Act is applicable.

(2) The person in whose favour the import licence was issued is hereinafter referred to as the "owner".

3. (1) Where the Permanent Secretary is satisfied—

Vesting of regulated equipment in the Government.

(a) that the owner of a regulated equipment has in contravention of the terms and conditions of the import licence issued in respect of that regulated equipment sold, mortgaged, transferred or in any other form alienated such regulated equipment; or

(b) that such regulated equipment is not necessary or has not been or is not used in connection with or for the purposes of the agricultural project for which the regulated equipment was imported; or

- (c) that any disposition of Crown land for any agricultural project, whether by way of grant, lease, agreement, permit or licence or other instrument of disposition, in connection with or for the purposes for which the regulated equipment was imported, is or has been terminated, cancelled, surrendered or has lapsed,

the Permanent Secretary may, by Order published in the *Gazette* (hereinafter referred to as a "vesting Order"), vest such regulated equipment in the Superintendent of Government Stores for and on behalf of the Government.

(2) It shall be deemed to be a condition of every import licence referred to in sub-section (1) of section 2 that any sale, mortgage, transfer or alienation in any other form of any regulated equipment in contravention of the terms and conditions of such licence shall be null and void, and accordingly—

(a) any such sale, mortgage, transfer or alienation in any other form of any regulated equipment shall at all times be deemed to have been and to be null and void and of no effect in law; and

(b) no right, title or interest whatsoever shall be deemed to have passed to the purchaser, mortgagee, transferee or alienee of such regulated equipment.

(3) No vesting Order shall be made under sub-section (1) except after notice to the owner to show cause why such Order should not be made, and except on his failure to show such cause or to show sufficient cause to the satisfaction of the Permanent Secretary.

(4) A vesting Order shall have the effect of giving the Government absolute title to any regulated equipment specified in the Order free from all encumbrances.

(5) Where any vesting Order has been made under sub-section (1), a copy of such Order shall be transmitted to the Superintendent of Government Stores, and, where such regulated equipment is a motor vehicle, a copy of such Order shall also be transmitted to the Commissioner of Motor Traffic.

4. Any officer specially or generally authorized by the Permanent Secretary (hereinafter referred to as an "authorized officer") may take possession of any regulated equipment vested in the Superintendent of Government Stores for and on behalf of the Government.

Taking possession of regulated equipment vested in the Government.

5. (1) Where a vesting Order has been made in respect of any regulated equipment, it shall be lawful for an authorized officer to give to the owner of the regulated equipment or the person in whose possession or custody the regulated equipment is, such written directions as appear to him to be necessary or expedient in connection with the taking possession of such regulated equipment, and the owner or person in whose possession or custody the regulated equipment is, shall comply with all such written directions.

Written directions may be given by authorized officer in writing relating to taking possession of regulated equipment vested in Government.

(2) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under sub-section (1).

6. (1) Every person who—

(a) prevents, obstructs or resists; or

(b) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession of any regulated equipment for and on behalf of the Government under section 4; or

(c) fails to comply with any written direction given under section 5,

shall be guilty of an offence under this Act.

Prevention of or obstruction to taking possession of regulated equipment for and on behalf of the Government.

(2) Any person guilty of an offence under sub-section (1) shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding two thousand rupees or to both such imprisonment and fine; and the Magistrate may, where such offence is committed by the owner of a regulated equipment or his agent or servant, order the forfeiture of such regulated equipment, in respect of which the offence is committed, to the Crown.

(3) Notwithstanding anything to the contrary, every offence under sub-section (1) shall be a cognizable offence within the meaning and for the purposes of the Criminal Procedure Code.

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(4) Where an authorized officer is unable or apprehends that he will be unable to take possession of any regulated equipment for and on behalf of the Government because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the regulated equipment is kept, be entitled to an order of the Court directing the Fiscal to deliver possession of that regulated equipment to him for and on behalf of the Government.

(5) Where an order under sub-section (4) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(6) For the purpose of executing an order issued by a Magistrate's Court under sub-section (4), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where the regulated equipment to which that order relates is kept and seize such regulated equipment, and to deliver possession thereof to the authorized officer for and on behalf of the Government.

Notice to persons entitled to make claims to the compensation payable under this Act in respect of any regulated equipment vested in the Government.

7. Where a regulated equipment is vested in the Government, the Permanent Secretary shall by notice published in the *Gazette* and in such other manner as may be determined by him, direct every owner of such regulated equipment to make within a period of one month from the date specified in the notice a written claim to the compensation payable under this Act in respect of such equipment and specify in his claim—

- (a) his name and address;
- (b) the particulars of his claim; and
- (c) the amount of compensation claimed by him.

Determination of compensation in respect of claim.

8. (1) Upon the receipt of any claim made under section 7 to the compensation payable under this Act in respect of any regulated equipment vested in the Government, the Permanent Secretary shall make a determination as to the amount payable in respect of such claim and shall give written notice of such determination made by him.

(2) The determination under sub-section (1) as to the amount of compensation payable shall be made having regard to the imported cost of the regulated equipment to the owner, the depreciation in value for the period of its use and the condition of the equipment at the time of taking possession thereof.

(3) The determination of the Permanent Secretary, subject to any appeal under section 9, shall be final and conclusive and shall not be questioned in any court of law.

9. (1) Any person aggrieved by the decision of the Permanent Secretary on a determination made by him on a claim to compensation in respect of any regulated equipment vested in the Government may within fourteen days of the receipt of the notice of determination under section 8 appeal to the Minister from such determination.

Appeal from a determination of compensation under section 8.

(2) The decision of the Minister on such appeal shall be final and conclusive and shall not be questioned in any court of law.

10. Any notice or direction to be given to any person under any provision of this Act shall be deemed to be given to him, if such notice or direction is sent to him by registered letter through the post.

Manner in which notice or direction may be served on persons.

11. Where any offence under this Act is committed by a body of persons, then—

Offences by bodies of persons.

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

Interpretation.

12. In this Act—

“agricultural plant, machinery or equipment” includes tractors, bulldozers or any other contraptions used for the purpose of or in connection with the clearing and cultivation of land;

“agricultural project” includes any project for rearing livestock or poultry;

“competent authority” means the Permanent Secretary to the Ministry in charge of the subject or function of agriculture at the time of the issue of any import licence referred to in section 2 (1);

“motor vehicle” has the same meaning as in the Motor Traffic Act.