

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment to section 2 of principal Act
3. Insertion of new sections 2A to 2N to principal Act
4. Amendment to section 5 of principal Act
5. Amendment to section 6 of principal Act
6. Amendment to section 8 of principal Act
7. Insertion of new sections 10A to 10C to principal Act
8. Amendment to section 12A of principal Act
9. Amendment to section 12B of principal Act
10. Amendment to section 12C of principal Act
11. Insertion of new section 18A to principal Act
12. Amendment of Schedule to principal Act
13. Insertion of new Schedules to principal Act



GRENADA
ACT NO. 6 OF 2020

I assent,



CÉCILE E. F. LA GRENADE

Governor-General.

15th September, 2020.

AN ACT to amend the Praedial Larceny Act CAP. 250.

[16th September, 2020].

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 and by the authority of the same as follows—

1. This Act may be cited as the

Short title.

PRAEDIAL LARCENY (AMENDMENT) ACT, 2020,

and shall be read as one with the Praedial Larceny Act Cap. 250, hereinafter referred to as the “principal Act”.

2. Section 2 of the principal Act is amended by inserting the following new definitions in the appropriate alphabetical order—

Amendment to section 2 of principal Act.

“Committee” means the Praedial Larceny Management Committee appointed or delegated under section 2C (1);

“licence” means a licence issued under section 2E;

“Ministry” means the Ministry of Agriculture;

“soursop” means soursop, whether in the pod or pulp, or separated from the pod, whether ripe or unripe and whether marketable or unmarketable;

“specially protected produce” means agricultural produce of the kind listed in Schedule II;

“Unit” means the Praedial Larceny Management Unit established under section 2A (1).

Insertion of new sections 2A to 2N to principal Act.

3. The principal Act is amended by inserting after section 2 the following new sections—

“Establishment of Praedial Larceny Management Unit

2A.—(1) There is hereby established the Praedial Larceny Management Unit within the Ministry.

(2) The Unit shall be headed by a Unit Coordinator and shall be provided with adequate staff with the requisite qualifications and experience for the discharge of its functions.

(3) The provisions of Schedule III shall have effect as to the constitution of the Unit and otherwise in relation thereto.

Functions of Unit

2B.—(1) The Unit shall be responsible for—

- (a) developing guidelines for policy implementation;
- (b) collecting and managing data;
- (c) making recommendations for amending, reviewing and imple-

menting the provisions of this Act;

- (d) monitoring activities to ensure compliance with and enforcement of this Act;
- (e) developing anti-praedial larceny programmes geared towards public awareness and education;
- (f) assessing, administrating, managing and executing national policies and programmes aimed at reducing the instances of praedial larceny; and
- (g) providing secretarial support to the Committee.

Praedial
Larceny
Management
Committee

2C.—(1) The Minister shall—

- (a) appoint a Praedial Larceny Management Committee in accordance with Schedule III; or
- (b) delegate an existing committee or body as the Praedial Larceny Management Committee.

(2) The Committee shall be responsible for—

- (a) considering and evaluating applications for licences on behalf of the Minister and

making recommendations to the Minister on the grant or refusal of applications relating to licences; and

- (b) advising and making recommendations to the Minister on the suspension or revocation of licences.

(3) The Unit shall be the secretariat to the Committee.

(4) The Committee shall determine its own procedure and may make rules governing such procedure as are considered necessary.

(5) Any member of the Committee who has any conflict of interest, real or perceived, directly or indirectly, in any matter before the body—

- (a) shall disclose the nature of the interest to the Committee, which shall be recorded in the minutes; and
- (b) shall not take part in any deliberations or decisions of the Committee with respect to that matter.

Mandatory
licensing

2D.—(1) No person shall carry on the trade or business of buying, selling, exporting, conveying or otherwise dealing in specially protected produce of the weight of fifteen

pounds or more without first obtaining a licence granted by the Minister.

(2) A person who fails to comply with the provisions of this section commits an offence and is liable, on summary conviction, to a fine of not less than five thousand dollars and not more than ten thousand dollars and to imprisonment for a minimum of four years.

Licences

2E.—(1) The Minister may, on the recommendation of the Praedial Larceny Management Committee, grant a licence as follows—

- (a) a trader's licence to authorise a person to carry on the trade or business of buying and selling, or of buying and exporting specially protected produce, for use on specified premises;
- (b) a traveller's licence to authorise a person to buy any specially protected produce at any place other than the premises for which that person holds a licence to do so;
- (c) a carrier's licence to authorize a person, or his or her servant or agent, to convey any specially protected produce in a vehicle along a public road.

Application
for licence

2F.—(1) A person may apply to the Minister through the Praedial Larceny Management Unit for a licence under section 2E to authorise the person to carry on the trade or business of buying, selling, exporting or conveying specially protected produce.

(2) An application shall be in the prescribed form and shall set out—

- (a) the name and address of the applicant;
- (b) the activities to be authorised by the licence; and
- (c) such other information as may be prescribed by the Minister,

and shall be accompanied by the fees as may be prescribed by regulations.

Determination
of application

2G.—(1) The Praedial Larceny Management Committee shall, after due consideration of an application under section 2F or 2I, make a recommendation to the Minister with respect to the outcome of the application.

(2) In determining whether to make a recommendation for the grant or renewal of a licence, the Praedial Larceny Management Committee shall have regard to—

- (a) the type of produce in respect of which the licence is sought;

- (b) the location of the premises in respect of which the licence is sought;
- (c) whether the applicant is a fit and proper person to hold such a licence and to perform the functions relating to the licence; and
- (d) any other requirements as may be prescribed by the Minister by regulations.

(3) On the recommendation of the Praedial Larceny Management Committee in respect of an application under section 2F, the Minister may—

- (a) grant a licence under section 2E;
- (b) refuse to grant a licence under section 2E; or
- (c) grant a licence under section 2E in respect of one or more of the activities specified in the application in accordance with section 2F (2) (b),

and shall communicate his or her decision in writing to the Chairperson, who shall then notify the applicant in writing of the same.

(4) Where the Minister grants a licence under section 2E, the Minister may attach conditions to the licence.

Form and
duration of
licence

2H.—(1) A licence granted under section 2E shall be issued to the applicant in the prescribed form, and any conditions attached thereto shall be specified in the licence.

(2) A licence shall come into force on the date specified in the licence and shall remain in force for one calendar year, unless sooner revoked by the Minister.

Renewal

2I.—(1) A licensee may make an application for renewal of a licence in the prescribed form and accompanied by fees as may be prescribed by regulations, not before three months but not later than two weeks before the expiration date of the licence.

(2) Where an application for renewal in accordance with subsection (1) has not been determined on or before the expiration date of the licence, the licence shall continue to have effect until the application is determined, unless the licence ceases to have effect by virtue of section 2L or 2M.

(3) An application for renewal shall be accompanied by the licence to be renewed or a true copy thereof.

Change of
circumstance

2J.—(1) Where the Minister has granted a licence and there has been a change with respect to any information provided for the purposes of the grant of the licence, the licensee shall no later than seven days following the

occurrence of the change, notify the Praedial Larceny Management Unit of the change of circumstance in the prescribed form.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Variation
of licence

2K.—(1) A licensee may make an application to the Minister in the prescribed form to vary a licence, including—

- (a) insertion, amendment or removal of an activity authorised by the licence;
- (b) amendment of another detail of the licence; or
- (c) amendment or removal of a term or condition attached to the licence.

(2) An application to vary shall be accompanied by a statement of the variation sought and the licence to be varied or a certified copy thereof.

(3) The Minister may, on the recommendation of the Praedial Larceny Management Committee—

- (a) grant an application for variation of a licence; or

- (b) reject an application for variation of a licence.

(4) The Minister shall communicate his or her decision in writing to the Chairperson, who shall then notify the applicant in writing of the same.

Lapse of licence

2L.—(1) Where a licence is granted to an individual, the licence shall lapse, if—

- (a) the individual dies; or
- (b) the individual is adjudged bankrupt.

(2) In any other case, a licence shall lapse if—

- (a) the licensee ceases to exist;
- (b) the licensee is adjudged bankrupt; or
- (c) the licensee goes into liquidation.

(3) Where a licence lapses by virtue of this section, the licence shall not be revived, but the licensee of the licence as lapsed, or any other person, may make an application for a new licence in accordance with section 2F.

Suspension, revocation and cancellation of licence

2M.—(1) The Minister may, on the recommendation of the Praedial Larceny Management Committee, suspend or revoke a licence, if the Minister is satisfied that—

- (a) the licensee has breached a condition of the licence;
- (b) any activity authorised by the licence is being or has been carried on in a manner that is against the public interest; or
- (c) the licensee is unsuitable to carry on the activities authorised by the licence.

(2) Where the Minister seeks to suspend or revoke a licence, the Minister shall cause a notice of revocation to be served on the licensee in the prescribed form, specifying the date upon which the suspension or revocation shall take effect and giving reasons for the suspension or revocation.

(3) A licensee may make an application to the Praedial Larceny Management Unit for cancellation of a licence in the prescribed form, and the cancellation shall take effect fourteen days after receipt of the application.

(4) Where a licence has been cancelled or revoked, the person to whom the licence was issued shall—

- (a) immediately cease to hold out in any way that the person is a licensee;
- (b) immediately cease to use any documents that identify the person as a licensee;

- (c) immediately return the licence, and any copies thereof, to the Praedial Larceny Management Unit.

(5) A person who contravenes subsection (4) commits an offence and is liable, on summary conviction, to a fine of twenty thousand dollars.

Appeals to the High Court

2N. Where an applicant is aggrieved by the decision of the Minister in respect of an application—

- (a) under section 2F for the grant of a licence;
- (b) under section 2I for the renewal of a licence; or
- (c) under section 2K for the variation of a licence,

the applicant may appeal the decision to the High Court.”.

Amendment to section 5 of principal Act.

4. Section 5 of the principal Act is amended—

- (a) by inserting the words “a term of” immediately before the word “imprisonment”; and
- (b) by deleting the words “for twenty-four months” and substituting therefor the words “not exceeding five years”.

5. The principal Act is amended by repealing section 6 and substituting therefor the following new section—

Amendment to section 6 of principal Act.

“Dishonestly receiving and disposing of praedial produce

6.—(1) Whoever dishonestly receives or unlawfully obtains any tree, plant, root, fruit, vegetable or other produce which is used or is capable of being used, whether after treatment or otherwise, as food or as an ingredient in food for man or beast knowing, or in circumstances in which he or she ought to know the same to have been stolen or unlawfully obtained shall be guilty of an offence against this Act.

(2) Whoever has in his or her possession any tree, plant, root, fruit, vegetable, flower of any fruit or food-producing plant or any part thereof which is used or is capable of being used, whether after treatment or otherwise, as food or as an ingredient in food for man or beast or as medicine for man or beast or for the manufacture of any article, and does not give a good account of how he or she came in possession thereof, shall be guilty of an offence against this Act.

(3) Whoever steals or dishonestly receives stolen produce with the intent to export or otherwise dispose of the same, shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding ten thousand dollars and a term of imprisonment not exceeding five years.”

6. Section 8 of the principal Act is amended—

Amendment to section 8 of principal Act.

- (a) in subsection (2), by deleting the word “two” where it appears after the word “exceeding” and substituting therefor the word “five”; and
- (b) in subsection (3), by inserting the words “of not less than two years and” after the word “imprisonment”.

Insertion of new sections 10A to 10C to principal Act.

7. The principal Act is amended by inserting after section 10 the following new sections—

“Forfeiture and sale after conviction

10A.—(1) Where any person is convicted of an offence pursuant to this Act, the court may, subject to sections 10B and 10C, order the forfeiture and sale of any agricultural produce or vehicle or other conveyance seized in relation to the offence.

(2) Where an order for forfeiture is made pursuant to subsection (1) the court may order the sale of such agricultural produce or the vehicle or other conveyance and unless an application pursuant to section 10B is successful, the same shall be sold and the proceeds of sale shall be paid into the Praedial Larceny Fund.

Restitution

10B.—(1) Notwithstanding section 10A, where any person is convicted of an offence pursuant to this Act, the court may order the delivery of any agricultural produce or vehicle or other conveyance seized in relation to the offence to the person who appears to be entitled to the same.

(2) Notwithstanding section 10A, the owner of agricultural produce or a vehicle or other conveyance which has been seized or forfeited pursuant to this Act may make a claim to the court for the agricultural produce, vehicle or other conveyance or the proceeds of sale of the same to be restored to the owner.

(3) Where a claim is made pursuant to subsection (2), the court may, subject to subsection (4), order that the agricultural produce, vehicle or other conveyance or the proceeds of sale of the same be restored to the owner on payment by the owner of any expenses incurred in transporting and keeping the agricultural produce, vehicle or other conveyance for the purposes of this Act.

(4) A court shall not make an order under subsection (3) if the owner of the agriculture produce, vehicle or other conveyance is convicted of aiding and abetting any person convicted of an offence pursuant to this Act in the commission of the offence.

(5) For the purposes of this section “owner” in relation to a motor vehicle has the meaning given to it pursuant to section 2 of the Road Traffic Act, Chapter 289A.

Sale or disposal of and compensation for perishable agricultural produce

10C.—(1) Notwithstanding section 10A, where agricultural produce is seized, the member of the Police Force, Rural Constable, or person designated making the arrest shall deliver the

agricultural produce to the Commander of the Police Station who shall, subject to subsection (2), preserve the agricultural produce for the purposes of the trial of the offence and where the agricultural produce is likely to perish before the trial of the offence, the Commander of the Police Station shall sell it or if a sale cannot be conducted shall dispose of it in any other manner as he or she sees fit.

(2) Where the offence referred to in subsection (1) is to be tried, the Commander of the Police Station shall deliver to the Clerk of Court a certificate containing the following information—

- (a) the quantity of agricultural produce received by him or her;
- (b) the quantity of agricultural produce sold;
- (c) the amount realised by the sale;
- (d) where the agricultural produce is disposed of otherwise than by sale, the method and date of disposal; and
- (e) the value of the proceeds of sale less any amount that is applied to satisfy the conduct of the sale.

(3) A certificate referred to in subsection (2) shall be admissible in evidence

as proof of the matters stated in it without proof of the signature of the Commander of the Police Station.

(4) Where the person charged with an offence pursuant to this Act is convicted of an offence pursuant to this Act in relation to which agricultural produce was seized and sold or otherwise disposed pursuant to this section, the court may—

- (a) in the case of sale, order that compensation be paid out of and not exceeding the net realized by the sale to the person who makes a claim and who appears to the court to be the owner of the agricultural produce;
- (b) subject to subsection (5), in the case where the agricultural produce was disposed of, order the accused to pay the person who makes a claim and who appears to the court to be the owner of the agricultural produce such compensation not exceeding the net market value of the agricultural produce.

(5) An order for the payment of compensation made pursuant to subsection (4) (b) shall not be for an amount in excess of five thousand dollars.

(6) An award of compensation referred to in subsection (4) shall not be a bar to any civil proceedings for damages where the net market value of the agricultural produce exceeds five thousand dollars, but any compensation awarded shall be taken into account for the purposes of awarding damages.

(7) Where agricultural produce is sold in accordance with subsection (1) and the owner cannot be ascertained, the proceeds of the sale shall be paid into the Praedial Larceny Fund.”

Amendment to
section 12A of
principal Act.

8. Section 12A of the principal Act is amended—

- (a) in subsection (4), by inserting the words “and an identification card” after the word “registration”;
- (b) in subsection (5)—
 - (i) in the chapeau, by inserting the words “and identification card” after the word “registration”;
 - (ii) in paragraph (a), by inserting the word “for” after the word “be”;
 - (iii) in paragraph (b), by inserting the words “and identification number respectively” after the word “number”;
and
 - (iv) in paragraph (c), by inserting the words “or identification card” after the word “registration”;

- (c) by inserting after subsection (5) the following new subsections—

“(5A) A member of the Police Force, Rural Constable, or person designated may at any time require a person with produce for commercial purposes to present his or her identification card and that person shall comply with the requirement within forty-eight hours.

(5B) In this section, “produce for commercial purposes” means produce of a quantity where it is reasonable to suspect that the produce is intended to be sold in the course of business.

(5C) A person who contravenes subsection (5A) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars and to a term of imprisonment not exceeding five years.”.

- 9.** Section 12B of the principal Act is amended by repealing subsection (4) and substituting therefor the following new subsection—

Amendment to section 12B of principal Act.

“(4) A person who fails to comply with the provisions of this section commits an offence and is liable, on summary conviction, to a fine of not less than five thousand dollars and not more than ten thousand dollars and to a term of imprisonment for a minimum of four years, as to the Magistrate seems proper.”.

- 10.** Section 12C of the principal Act is amended—

- (a) in subsection (1)—

Amendment to section 12C of principal Act.

- (i) by deleting the words “police officer” and substituting therefor the words “member of the Police Force, Rural Constable, or person designated”; and
 - (ii) by deleting the words “the Schedule” and substituting therefor the words “Schedule I”; and
- (b) in subsection (3), by deleting the word “police” where it appears.

Insertion of new section 18A to principal Act.

11. The principal Act is amended by inserting after section 18 the following new section—

“Amendment of Schedules II and III.

18A. The Minister may amend Schedules II and III by Order.”.

Amendment of Schedule to principal Act.

12. The Schedule to the principal Act is amended by renaming the title of the Schedule as “Schedule I”.

Insertion of new Schedules to principal Act.

13. The principal Act is amended by inserting after Schedule I the following new schedules—

“SCHEDULE II

SPECIALLY PROTECTED PRODUCE

(section 2)

1. Soursop

SCHEDULE III

(section 2A (3), 2C (1))

CONSTITUTION OF THE PRAEDIAL LARCENY MANAGEMENT UNIT AND
THE PRAEDIAL LARCENY MANAGEMENT COMMITTEE

1. Composition of Praedial Larceny Management Unit. The Praedial Larceny Management Unit shall comprise five members as follows—

-
- (a) a Unit Coordinator who shall be a Senior Extension Officer within the Ministry;
 - (b) a Praedial Larceny Liason Officer who shall be a Senior Police Officer on assignment from the Royal Grenada Police Force;
 - (c) a Farmer Registration Officer within the Ministry;
 - (d) a Public Relations Officer within the Ministry; and
 - (e) a Pest Management Officer who shall be a Senior Plant Quarantine Officer within the Ministry.

2. Composition of Praedial Larceny Management Committee. The Praedial Larceny Management Committee shall comprise seven members as follows—

- (a) the Permanent Secretary of the Ministry or his or her nominee, who shall be the Chairperson;
- (b) a representative from the farmers organization;
- (c) a representative from the Bureau of Standards who shall be a senior member of staff;
- (d) a Plant Quarantine Officer who shall be a Senior Officer within the Ministry;
- (e) a representative from the Ministry of Trade who shall be a Senior Officer;
- (f) the Chief Extension Officer within the Ministry or his or her nominee; and
- (g) a Praedial Larceny Liason Officer who shall be a Senior Police Officer on assignment from the Royal Grenada Police Force.

3. Meetings and procedures.—(1) The Committee shall meet at least twice in each month and at such other times as the Chairperson determines is necessary for the efficient discharge of its functions.

(2) The Committee shall determine its own procedure and may make rules governing such procedure as are considered necessary.

(3) Any member of the Committee who has any conflict of interest, real or perceived, directly or indirectly, in any matter before the body—

- (a) shall disclose the nature of the interest to the Unit; and
- (b) shall not take part in any deliberations or decisions of the Unit with respect to that matter.

(4) A disclosure under this section shall be recorded in the minutes.

4. Quorum.—(1) Subject to subsection (2), four members of the Committee, including the Chairperson shall form a quorum.

(2) In the absence of the Chairperson, five members shall form the quorum, including the member whom those present have elected to preside in place of the Chairperson at that meeting.

5. Vote.—(1) Every decision of the Committee shall be by the majority of the members present and voting at a meeting.

(2) In the event of an equality of votes, the Chairperson or other member so presiding shall have a casting vote.”

Passed by the House of Representatives this 12th day of August, 2020.

ANDREW AUGUSTINE
Clerk to the House of Representatives (Ag.).

Passed by the Senate this 19th day of August, 2020.

ANDREW AUGUSTINE
Clerk to the Senate (Ag.).

GRENADA