

Act No. 35 of 2000

on

Plant Protection (Hungary)

(Accepted by the Parliament on 2 May 2000

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The Parliament

- having regard to the necessity of international cooperation aiming at the prevention of introduction and spread of any pests of plants and plant products as well as at the implementation of integrated pest management,
- having regard to the general criteria of environment protection and nature conservation in view of protecting human health, and
- having regard to the accession of the Hungarian Republic to the European Union,
enacts the following Act:

CHAPTER 1

Aim of the Act

Article 1

The aim of the Act is to protect plants, especially crops and plant products, from any pests and to prevent and avoid risks imposed by plant protection by observing general criteria related to human and animal health, to environment protection and nature conservation, as well as chemical safety of plant protection practice.

Scope of the Act

Article 2

(1) The scope of this Act refers to any natural person, legal entity and economic associations having no legal entity, as well as subsidiary companies of foreign enterprises in Hungary who (which)

a) possess or use area suitable for agricultural production, forestry or any vegetation or is obliged to use the land, or possess and use facilities where plants can be maintained (hereinafter: land user),

b) grow plants, use, process, place on the market, store, transport or utilise any plants, plant products (hereinafter: producer),

c) import, manufacture, formulate, place on the market, store, supply, utilise, or advise on such activities,

d) import, export any plants, plant products to or from the country or transit them throughout the country, except for aerial transport without landing,

e) place on the market or operate plant protection machinery, sprayers (hereinafter: plant protection machines).

(2) As for manufacturing plant protection products and yield enhancing substances, provisions of regulations on dangerous substances and products shall apply.

(3) As for wild plant and animal species, or protected ones, as well as nature conservation areas provisions of this Act shall apply respecting the related provisions specified in the Act on Nature Conservation.

(4) Provisions of the Act shall be used in accordance with regulations on hazardous wastes.

Explanatory terms

Article 3

In this Act the following definitions apply to the terms below:

1. *Plant*: living plants and their parts:

- a) seed, germplasm, pollen, tissue culture,
 - b) fruit for consumption or processing (in botanical sense)
 - c) tuber, bulb, corm, rhizome, stem and stolon,
 - d) cut flower,
 - e) branch, shoot with leaves or buds,
 - f) felled tree, cut branch keeping their leaves,
 - g) bacterial or fungal cultures with plant pathogenicity
2. *Plant product*: unprocessed product of plant origin (including grains) or product undergone simple processing which is not covered by item 1, but, by its nature or way of processing, imposes risk of introduction and spread of pests
 3. *Pest*: plant, animal, pathogenic agent or any organism, harmful to plants or plant products
 4. *Quarantine pest*: pest of potential economic importance to the area endangered thereby and not present there, or present but not widely distributed and being officially controlled
 5. *Regulated non-quarantine pest*: any pest which is regulated within the territory of the importing country or covered by regulations due to its economic importance
 6. *Regulated article*: any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pest, deemed to require phytosanitary measures
 7. *Phytosanitary certificate*: certificate issued, numbered by the competent: plant protection and soil conservation service, patterned after the model certificates of the IPPC of FAO, certifying that the plants, plant products have been officially inspected, which complies with the provisions of the importing country
 8. *Mass outbreak*: significant increase of pest population of economic importance necessitating official phytosanitary measures for protecting the crop or plant products
 9. *Quarantine*: phytosanitary measures for eradicating or confining the quarantine pests
 10. *Protected zone*: designated area where one or more pests is not present: or has not been established in spite of the favourable ecological conditions, though it occurs or has already established in several parts of the country or the neighbouring countries
 11. *Restrictions*: inhibiting measures for transport, placing on the market, use taken because of the suspicion of pesticide residue content exceeding the maximum level or until clarifying the suspected occurrence of a pest specified in items 4-5, in plants, plant products, certain regulated articles
 12. *Destruction*: phytosanitary measures for lifting the quarantine at the full expenses of the owner, processor, user, distributor of the plants or plant products
 13. *Officially ordered treatments*: official treatments and treatments of public interest ordered in a phytosanitary measure.
 14. *Plant protection*: any measures preventing introduction, spread, damages of pests of plants, plant products as well as any procedures suitable for preventing injuries
 15. *Integrated pest management*: reasonable comprehensive use of control measures of confirmed efficiency (agronomic, physical, biological, chemical) respecting the environment especially the natural enemies of the pest
 16. *Active substance*: any materials of natural origin or produced by chemical, biological or biotechnological procedure, or any living organisms suitable for the control of the pests present on the plants, plant products or regulate plant physiology in a controlled waxy (except for water, carbon-dioxide and plant nutrients)
 17. *Plant protection product*: any product containing active substance(s) generally with adjuvants and additives manufactured in a formulation suitable for plant protection practice
 18. *Product of plant protection effect*: any product suitable for repelling, attracting, inhibiting, modifying the biology, behaviour, reproduction or physiology of a pest
 19. *Plant protection equipment*: instruments, devices necessary for basing pest control
 20. *Additive*: any material used for manufacturing plant protection products and influencing their physical properties
 21. *Adjuvant*: any material influencing the application efficiency of plant protection product
 22. *Residues*: specific quantity of active substance which can be detected in plants, plant product or in certain elements of the environment and can be attributed to the application of plant protection product, which includes total quantity of decomposition products or metabolites, in case of specific indication
 23. *MRL (maximum residue limit)*: the specified highest quantity, expressed in mg/kg of the commodity, of the residue of plant protection product at which the plants, plant products can be consumed or placed on the market
 24. *Yield enhancing substance*: any material of natural origin or manufactured by physical, chemical, biological or other artificial procedures, or any mixture of them intended for marketing, suitable for plant nutrition or influencing the nutrient supply or fertility of soils (except for water, carbon-dioxide and untreated farmyard manure without additives)
 25. *Growing medium*: any soil, soil mixture and other media in solid or liquid phase serving for rooting and growing of plants

26. *Plant conditioner*: any non-nutrient material influencing plant metabolism
27. *Accepted toxic chemical substance deriving from yield enhancing substance*: the specified highest quantity, expressed in mg/kg DW, of nitrite, nitrate, toxic heavy metal compounds and other toxic chemical compounds at which the particular product can be placed on the market
28. *Product subject to registration*: plant protection product, adjuvant, additive, product with a plant protection effect, plant protection equipment (except for instrument), yield enhancing substance, growing medium, plant conditioner and any other product used for similar purposes, the placing on the market and use of which is subject to registration procedure
29. *Registration*: official decision issued for placing on the market and use of the products listed under item 28
30. *Holder of the registration*: anyone possessing registration for placing on the market and use of the products subject to registration
31. *Illegally marketed product*: any product subject to registration with no registration for placing on the market and use and any article bearing illegal indication of the name of the; licensed manufacturer, of the product or illegal reference to the registration or label, packaging bearing improper data, counterfeit equipment, or deriving from illegal formulation
32. *Re-entry time*: period specified in hours or days before which any operation on the area treated with the product subject to registration can only be made wearing protective equipment
33. *Pre-harvest interval*: the period generally specified in days which shall lapse between they last treatment with a product subject to registration and the harvest of plants, plant products (including intercrops and cover plants) or between loading in after disinfection of the storage place and loading out of the crop and use, placing on the market, consumption and commercial dispatch of the commodity

CHAPTER 2

PLANT PROTECTION

Plant protection activity

Article 4

- (1) During any plant protection activity all efforts shall be made in order to observe integrated production respecting human and animal health as well as protecting the environment and nature aiming at
- a) preserving plant health and the quality of plant products by
 1. preventive measures
 2. preventing introduction or spread of pests
 3. efficient control of pests
 - b) avoiding risks occurring due to application, storage of plant production products or to other activity performed with them.
- (2) It is forbidden to place any plants, plant products on the market, which contain residues or toxic chemical substances derived from yield enhancing substances higher than specified tolerances accepted in regulations.
- (3) Any plants, plant products treated with a product subject to registration can be placed on the market and used for human and animal consumption only after the specified preharvest interval, except if it is proved by official testing that the plants and plant products comply with the requirements of placing on the market.

Article 5

- (1) The land user and producer shall
- a) to destroy the quarantine and the regulated non-quarantine pests, to prevent their introduction, establishment, spread,
 - b) to immediately notify the competent county plant protection and soil conservation service (hereinafter: Service) on any infestation caused by quarantine pests or its suspicion,
 - c) to control other pests not covered by item a) if they impose risk, in any way, to the plant production or plant protection safety of the neighbouring land users or producers or human health and to observe the principles of integrated pest management as well as the protection of environment and nature,
 - d) to comply with obligation for registration of producers and record keeping by and data supply for the Service in relation to the activity, as regulated by other order of legislation,
 - e) to keep records of the plant protection activity as regulated by other order of legislation and to show them on request of any authorized inspector.
- (2) The, land user and the producer shall tolerate

- a) official treatment and treatment of public interest performed by authorized persons,
- b) check performed by the Service and participate therein by showing objects, certificates of the check and they are required to perform the ordered measures.

Official treatment

Article 6

- (1) Official treatment can be provided for if
 - a) occurrence of a non-native quarantine pest has been recorded in the country,
 - b) the treatment carried out by the producer for the eradication of quarantine pests, due to reasons beyond the producer's responsibility, has not been effective,
 - c) spread of the quarantine pest should be prevented.
- (2) The following bodies are authorized for ordering official treatment:
 - a) the Service, in the cases under paragraph (1)b) and c), partially or completely covering the county, with prior information of the Central Plant Protection and Soil Conservation Service (hereinafter: Central Service) of the Ministry of Agriculture and Regional Development (hereinafter: ministry),
 - b) the ministry, in case of paragraph (1)a), covering several counties and the whole country.
- (3) The decision ordering official treatment shall specify the mode and deadline of the elimination of infestation.
- (4) Appeal against the decision ordering official treatment has no postponing effect on the execution.
- (5) Official treatment is a state responsibility, its expenses shall be covered by the central budget.

Treatment of public is interest

Article 7

- (1) Treatment of public interest shall be provided for if the land user or the producer does not comply with the obligation for treatment in spite of decision of the Service. Treatment of public interest is ordered by the competent Service in the outside areas, while by the public notary (hereinafter: notary) of the municipality or of the district council in the capital for the areas within the locality. Appeal against the decision ordering treatment of public interest has no postponing effect on the execution.
- (2) If the local government does not comply with the land users obligation specified under Article 5 for lands within the localities, the director of the competent Service may order treatment of public interest or may designate the notary, with his consent, entitled to order treatment of public interest. The designated notary shall immediately order the treatment of public interest.
- (3) Expenses for carrying out the treatment of public interest shall be ensured from the budget allocated for the elimination of the infestation, which the land user or producer is required to refund to the Service ordering the treatment of public interest. In case of delayed payment, this sum is increased by double of current rate of interest laid down the National Bank. Should the land user or the producer not pay, expenses of treatment of public interest shall be collected as taxes for the budget of the ministry, or the local government. Expenses are collected by the Tax and Financial Auditing Office.
- (4) Previous approval of the competent Service regulated by other order of legislation shall be obtained for elimination of infestation or epidemics caused by quarantine and regulated non-quarantine pests as well as of quarantine pests on woodlands and nature conservation area, resp., as well as before ordering treatment of public interest.

Phytosanitary inspections

Article 8

- (1) Any regulated consignments of phytosanitary concern referred to in other order of legislation, in import, export and transit trade can be transported only with the phytosanitary certificate issued by the Service of the country of origin or exporting; country and with plant passports in cases specified in other order of legislation.
- (2) Regulated plants, plant products loaded in a county intended for export can be transported to a storage place or for dispatch in an other county only with a national phytosanitary certificate or in cases specified in other order of legislation, with a plant passport.
- (3) According to other order of legislation, plant passport shall be issued to certify that: producers authorized under Article 5(1)d) observed the phytosanitary requirements on the specific procedures in the course of production, processing, placing on the market and storage of the plants, plant products.

Article 9

(1) Phytosanitary inspection of the plants, plant products shall be made at the border inspection posts (BIP) of the competent Service as laid down in the particular order of legislation.

(2) As for the operation and the administration, the Hungarian BIP managed on the territory of a neighbouring country is deemed a domestic workplace of the Service or its organizational unit.

Article 10

(1) A other order of legislation applies to the determination of the quarantine and regulated non-quarantine pests as well as to the obligatory measures to prevent their introduction and spread.

(2) Any area, plants, plant products, their consignments, storage place, facility infected/infested by quarantine and regulated non-quarantine pests shall be placed under quarantine and the import consignment shall be rejected independently from the fact that a phytosanitary certificate is attached. The Service may order restrictions for, or refuse, the consignment at the import of any propagating material heavily infested by other pests not listed in the provisions.

CHAPTER 3

REGISTRATION OF PLANT PROTECTION PRODUCTS

Obligation for registration

Article 11

(1) Placing on the market and use of plant protection products, additives and adjuvants (hereinafter: plant protection products) in Hungary are subject to the registration of the ministry. Application for registration shall be submitted to the ministry. A foreign legal entity, natural person may apply for registration of plant protection products only via its Hungarian representative.

(2) Data and samples specified in the particular order of legislation and necessary for the evaluation of the plant protection products shall be attached to the application for registration.

(3) The ministry may make an exception to the rule of submitting certain data if the necessary data are available for the evaluation. Data supplied for earlier registration procedures can be used only with the written consent of the holder of the registration document.

Registration for placing on the market and use

Article 12

(1) The ministry grants registration upon the official statement of the body designated by the Ministry of Health and of the Ministry of Environment. The ministry issues a registration document for the plant protection product registered for placing on the market.

(2) The ministry, in the registration document referred to under paragraph (1) determines the necessary regulations on application, especially the registered uses, doses to be applied as well as the regulations for application necessary for the protection of human and animal health and the environment and nature, the persons authorized for application and other necessary conditions for placing on the market and use of the plant protection product.

(3) Any seed, plant material and growing medium, containing not registered plant protection product or to which such plant protection product is adhered, can be placed on the market only pursuant to other order of legislation provisions.

Article 13

The ministry may give permission for placing on the market of non-registered Hungarian or foreign plant protection products:

a) in case of risk of delay in the control of certain pests

b) to be used for plants and plant products intended for export for a specified quantity and specified period of time, if the plant protection products meet the general requirements, especially for labour precautions and their labelled use does not impose risk to health and environment or nature.

Article 14

- (1) The ministry authorizes placing on the market and use of the plant protection product, if
- a) the application for registration meets the requirements specified in the provisions.
 - b) the active substances and additives of the plant protection product registered for use are contained in other order of legislation; c) based on the study conducted with the plant protection product, it can be stated that, according to the present scientific and technical knowledge, if used properly and according to the document, or due to such use, at the same time, the product
 1. is duly effective,
 2. is not phytotoxic to the plants and plant products to be protected,
 3. does not cause avoidable pain or suffering to vertebrates against which the product is intended to be used,
 4. does not have any harmful effect on human or animal health, on environment and nature
 - d) the followings can be reliably determined
 1. kind and quantity of the active substances in the plant protection product as well as other substances affecting health and environment,
 2. residues, affecting human and animal health and for the environment, produced during proper, labelled use of plant protection products, e) the plant protection product can be properly stored; f) the applicant has paid the registration fee.
- (2) In the frame of the registration procedure, the ministry, upon the official statement of the body designated by the Ministry of Health and of the Ministry of Environment, observing the stipulations in the separate provision, decides on
- a) the conditions of application of the plant protection products,
 - b) regulations on application necessary for the protection of human and animal health and the environment and nature.
- (3) The ministry decides on granting the registration within 18 months of the complete submission of data, annexes, samples of the products and active substances of analytical grade necessary for the evaluation of the application. The deadline for making the official statement referred to in paragraph (2) is 12 months.
- (4) During the procedure, the ministry may request the applicant to submit additional data, annexes, experimental and analytical grade samples, if it is necessary for the evaluation meet the registration requirements. Until not meeting these requirements, the ministry shall suspend the registration procedure.
- (5) The ministry, if it is necessary for the protection purposes specified in Article 1, during the registration procedure, may require to obtain, collect and assess certain information on the application of the plant protection products and to submit such results to ministry within a fixed period of time. Upon the request of the ministry, the appropriate documents and samples shall be submitted.
- (6) The ministry may require the holder of the registration document to submit data, annexes and samples, if new knowledge necessitates revision of the registration.
- (7) The applicant or the holder of the registration document shall notify the ministry, within 8 days, at the latest
- a) of any change in the data submitted in the application for registration and in the submitted documentation in the relation to the plant protection products and
 - b) new knowledge on the effect of the plant protection product on human and animal health as well as on the environment and nature.
- The data, annexes and samples, the changes or the new knowledge derived from, shall be attached to the notification.

Article 15

- (1) The registration is valid for maximum 10 years from the date of granting. After which time a re-registration can be applied for.
- (2) The registration can be granted, differently from paragraph (1), for three years, if the plant protection product meets the conditions specified under Article 14(1), but the application for registration does not contain certain data required in separate provision. If the specified conditions are fulfilled, the validity of the registration can be extended for further 7 years.
- (3) In case of registrations granted according to paragraph (1) and (2), re-registration shall be applied for 18 months before the expiry of the registration in order to maintain continuity of registration. Re-registration can be granted or validity can be extended if the plant protection product fulfils the conditions laid down in Article 14(1) c) e).

(4) If, within 18 months prior to the expiry of the registration, no decision is made on the re-registration, the ministry, in accordance with the application, may prolong the registration until the decision on re-registration is made.

(5) During validity of the registration, the holder of the registration document shall annually

- a) submit analytical grade samples to the Central Service as well as
- b) shall pay a maintenance fee, stipulated in a separate provision. The maintenance fee shall be paid to a separate account of the Central Service.

Withdrawal and suspension of the registration

Article 16

(1) The ministry may amend the registration officially or at request, if it is justified for technical and scientific reasons.

(2) The registration shall be withdrawn, if

- a) the holder of the registration document requests the withdrawal,
- b) evidence according to the current technical and scientific knowledge confirms that the plant protection product, even if used as prescribed, imposes risk to human health or environment including registered crops,
- c) another order of legislation prohibits use of the active substance or
- d) the holder of the registration document has not submitted the analytical grade samples or other samples specified in separate provision.

(3) The ministry, instead of withdrawing the registration, may order suspension of the registration for a fixed period of time.

(4) Validity of the registration is interrupted, if it is requested or the applicant does not pay the maintenance fee. The plant protection product cannot be marketed during the period of suspension of the registration document. Suspension does not prolong validity of the registration.

(5) If the competent Service participating in the registration procedure makes steps for reviewing the registration during the validity of the document, the measures under paragraph (2)-(3) shall apply if justified by the review.

Handling plant protection product with expired or withdrawn registration document

Article 17

(1) Excluding any claim for indemnification, the ministry provides for the return of the plant protection product, if the decision on withdrawal prohibits further use: of the products stock. The holder of the registration document, the importer or their representative or any party duly authorized and prepared by them shall take the plant protection product back for removing from the country or for decontamination in the country.

(2) The plant protection products specified under paragraph (1)-(2) are considered hazardous wastes, another order of legislation applies to their management.

Article 18

Data required for registered plant protection products, the expiry date, and the withdrawal, suspension of the registration as well as conditions of taking such measures (induced by health or environmental reasons) shall be published in the official journal of the ministry.

Use for experimental purposes

Article 19

(1) Plant protection products can be used with the permission of the ministry for experimental purpose, if

- a) during application, it is not expected that they may have harmful effect on humans or on animal health or water, or impose an unacceptably high risk to environment and nature,
- b) the user, according to another order of legislation, attested possession of the necessary technical knowledge, skills and equipment.

(2) Biological trials, except for laboratory tests and greenhouse pot experiments, with plant protection products not registered in the country, can be carried out only with the special permission of the ministry, obtained on request.

(3) Studies with a plant protection product containing a viable organism not native in Hungary can be conducted even for laboratory experimental purposes only with the permit issued by the ministry, taking the statement of the body designated by the Ministry of Health and of the Ministry of Environment into consideration.

(4) Use for experimental purposes of products with active substances not registered in Hungary or not involved in official trials shall be allowed by the ministry observing the statement of the body designated by the Ministry of Health and of the Ministry of Environment. This official statement shall be deemed to have been given after 15 days.

(5) In the permit, the ministry specifies the place and the special conditions necessary for the application (isolation, destruction, other safety measures).

(6) Field trials carried out with non-registered products can be publicly shown only with the previous permission of the Central Service.

Emergency and case by case use permits

Article 20

(1) On request, the Central Service may issue an emergency permit for the use of a plant protection product registered in the country, in a special case different from the labelled use or mode of application, if

- a) the use is justified by common interest or the plant protection conditions,
- b) knowledge is available confirming that the plant protection product is effective for the requested uses,
- c) during the labelled use, conditions laid down in item c) of paragraph (1) of Article 14 are fulfilled.

(2) The emergency use permit shall contain provisions for fresh-market crops, food-industry and fodder plants on

- a) pre-harvest interval for the registered treatment,
- b) maximum residue limit of the plant protection product,
- c) regulations on temporary marketing of and restrictions for the crop originating from the treated area agreed with the body designated by the Ministry of Health.

(3) Contamination with a plant protection product of the crop originating from the area treated according to the emergency use permit shall be checked after harvesting, in a designated laboratory.

(4) If the plants, plant products contain residues of plant protection product above the MRL, a decision on their further use shall be made by the body designated by the Ministry of Health, and in case of fodder crops and products, by the bodies designated by the ministry in the form of a case by case permit.

(5) The above permits are valid for a single use on the area and for the period specified in it.

Article 21

Application for emergency and case by case use permits may be submitted, besides the holder of the registration, by:

- a) land users and producers who perform agricultural and forestry activity,
- b) organizations the activity of which justifies it.

Data protection and confidentiality

Article 22

(1) Own data submitted by the applicant for the registration shall be considered the property of the applicant. In the application for registration, the scope of data specified by the applicant shall be handled according to the regulations on the protection of personal data and disclosure of data of public interest. In the application for registration, the applicant shall declare the scope of data to be handled confidentially.

(2) Protection period for data under paragraph (1) is 10 years from the date of granting the registration.

(3) During the time of data protection, the submitted data specified under paragraph (1) cannot be published without the written consent of the owner of the data.

(4) After expiry of the data protection, the ministry cannot give out the data placed at its disposal, but may use them for its decisions in other registration cases.

(5) The following data shall be handled as public:

- a) name and address of the holder of the registration document,
- b) content of the safety data-sheet of the plant protection product,
- c) the summary of results related to toxicity and ecotoxicity studies, efficacy trials, as well as to effects on human and animal health, and to effects on environment and nature, as well as the trial methods,

d) safety regulations, labour-hygienic precautions, rules on, environmental and human health, plant protection products and packaging converting into waste, as well as data on measures to be immediately taken in case of accidents.

(6) The applicant and the holder of the registration document shall, with 8 days, notify the ministry if they consented to the publication of any data or documents which had been given by them as subject to secrecy according to paragraph (1).

Classification, packaging, labelling

Article 23

(1) Plant protection products shall be classified according to their

- a) honeybee toxicity,
- b) fish toxicity
- c) wildlife toxicity,
- d) environmental risk
- e) fire hazard, explosiveness
- f) marketing category
- g) risk categories specified in other order of legislation

(2) Plant protection products can be placed on the market only in safe packaging, avoiding human exposure, bearing a well-fixed, irremovable label in contact with the product, on the packing material with a text of appropriate size and content in Hungarian language as specified in provisions. The label shall contain data specified in the registration document according to Article 12(2).

(3) The regulations on the packing material of plant protection products as well as on handling of packaging contaminated with plant protection products are specified in other order of legislation. Introduction of the return system and the decontamination by recycling shall be carried out as basic principle of the provision.

Reporting obligation

Article 24

(1) Before 1 March of every year, the manufacturer, importer of the plant protection product shall prepare a report on the product turnover of the previous year to the ministry, containing the name and quantity of the plant protection products.

(2) The ministry may specify data supply laid down under paragraph (1) also for certain yield enhancing substances.

(3) The ministry keeps records on such data and may publish them according to an agreement with the producer of the data.

Prohibition of influence on consumers

Article 25

(1) Promotion and advertisement of a plant protection product are allowed only in accordance with the content of the registration document and as specified in the separate provision.

CHAPTER 4

USE OF PLANT PROTECTION PRODUCTS

General requirements

Article 26

Plant protection products shall be used according to the registration and according to the good agricultural practice fully observing the labour and chemical safety precautions. The plant protection products cannot be used if the user should consider that they may have any harmful effect on the health of man and animal, on the surrounding crops under the particular conditions of using the plant protection products, or may impose risk to environment and nature.

Article 27

- (1) With respect to the placing on the market and use of the plant protection products, other order of legislation classify them in marketing categories I, II and III.
- (2) Plant protection products with marketing categories I and II can be placed on the market, sold, bought and used by anyone having qualification specified by a separate provision.
- (3) Purchase and use (except for servicing) of plant protection products with marketing category III are not bound to any qualification.
- (4) Record on marketing of plant protection products shall be kept according to other order of legislation.

Specific requirements on application

Article 28

- (1) Plant protection products can only be used according to the registration documents except for the case by case use permit issued by the Central Service.
- (2) Plant protection products with marketing categories II and III can be used on inhabited areas, amenity areas, including railway tracks, in family and, household gardens (except for greenhouse, storage places, silos).
- (3) Additional restrictions may be ordered by special provisions for application of plant protection products in the vicinity of inhabited areas or buildings used for animal husbandry.
- (4) Any operation with plant protection products shall be arranged in a way to prevent spillage and waste.
- (5) Illegally marketed plant protection products and packaging shall be treated as hazardous wastes of highest risk until the end of the qualification procedure regulated by other order of legislation.

Article 29

- (1) Without quality control, no plant protection products with expired date of shelf life shall be placed on the market.
- (2) Performance of quality tests is the responsibility of the distributor or the servicing, company.
- (3) Should the quality of the plant protection product differ from the specification in the registration document, the Central Service shall decide on any further use together with its conditions.
- (4) Should the quality control results state that a particular lot of the plant protection product is unsuitable or dangerous for the intended use, the competent Service shall prohibit the placing on the market and use.

Article 30

The producer is required to notify the competent Service on any harvest which has been made: before the expiry of the pre-harvest interval. The crop of such harvest has to be stores separately from other crops and must not be used or placed on the market until further measures are taken.

Professional conditions for using plant protection products

Article 31

- (1) Storage, placing on the market, transport, use of plant protection products are activities of high risk.
- (2) Activities listed under paragraph (1), except for purchase and use of plant protection products with marketing category III, can be made by anyone having the necessary training specified by the separate provision.
- (3) Plant protection services can be provided by any person who
 - a) is a plant protection specialist of university degree, in case of using; plant protection products with marketing category I,
 - b) is a plant protection professional of medium degree, in case of using; plant protection products with marketing categories II and III,
 - c) regularly takes part in training courses regulated by other order of legislation and. possesses a licence entitling him to purchase plant protection products specified under Article 27(2),
 - d) possesses conditions and licences regulated by other order of legislation on they storage of plant protection products,

e) possesses entrepreneurial licence for any plant protection activity issued by the Hungarian Chamber of Plant Protection Professionals and Plant Practitioners.

(4) Plant protection servicing includes treatments made for other persons or recommendations on the use of plant protection products. For servicing limited to recommendations fulfilment of paragraph (3)d) is not necessary.

(5) Other order of legislation specifies conditions of qualification necessary for aerial application of plant protection products.

(6) An entrepreneurial licence for any plant protection activity can be withdrawn by the registration authorities.

Registration for placing on the market

Article 32

(1) Wholesale marketing of plant protection products can be carried out only by any plant protection specialist of university degree or anyone who employs such person. Wholesale marketing of plant protection products is registered by the notary, based upon the statement of the competent authorities specified by a separate provision, or that of the Central Service.

(2) Retail marketing of plant protection products can be carried out only by any plant protection professional or anyone who employs such person. Retail marketing of plant protection products is registered by the notary, based upon the statement of the Service if other statements of the competent authorities are available.

(3) Distribution licence can be suspended, restricted, modified or withdrawn if the original conditions of registration have been changed or if the holder of the registration document does not fully meet the requirements.

Purchase, transport, storage

Article 33

(1) It is forbidden to sell, store and transport plant protection products in the same space as foodstuffs and feeds.

(2) Plant protection products, other than those ready-to-use for treatment of indoor ornamentals, cannot be sold from a slot machine, in self-service systems, market places, through delivery service, mobile trade.

(3) Regulations on packaging of plant protection products for transportation and moving, outside the settlement are specified in provisions on transportation of hazardous commodities (ADR/RID, etc.)

(4) Other regulations on storing and transporting of plant protection products are regulated by other order of legislation.

CHAPTER 5

PLANT PROTECTION MACHINERY

Article 34

(1) Prior to their placing on the market, the plant protection machines and equipment for applying plant protection products, other than small capacity machines, and machines for research, experiments, trials or demonstration, shall be qualified for drop formation and application performance. No qualification is required for plant protection machines which have international certificates of quality. The manufacturer or distributor is required to present a declaration to the competent institute of the ministry stating that the plant protection machines meet the requirements of placing on the market as regulated by other order of legislation.

(2) The declaration shall contain:

- a) name and address of the manufacturer, distributor or importer,
- b) type of machine and field of application.

(3) The declaration shall be accompanied by a Hungarian language:

- a) users' guide,
- b) specification,
- c) other certificates required for the evaluation.

(4) Additional data supply in relation to the application performance and testing of the plant protection machine may be required.

(5) In cases specified in provisions, the machinery used for plant protection shall be regularly tested for drop formation and application performance.

(6) In case of modifying the type of the machine, influencing the application of plant protection products, documentation under paragraph (3) shall be submitted again to the institute designated by the ministry.

Article 35

(1) The institute designated by the ministry keeps records of the type of machines on the List of plant protection machines for which the ministry has issued registration for placing on the market based on the presented declaration.

(2) The list of Plant Protection Machines and its amendments shall be published in the official journal of the ministry.

Article 36

If the plant protection machine does not meet the requirements specified under Article 34(1) according to the test results, the ministry cancels the type from the List of Plant Protection Machines.

CHAPTER 6

YIELD ENHANCING SUBSTANCES, GROWING MEDIA, PLANT CONDITIONERS

Placing on the market

Article 37

Yield enhancing substances, growing media, plant conditioners (hereinafter, yield enhancing substances) can only be placed on the market if

a) they have positive effect on the soil or the crop confirmed by tests, trials and have no negative side-effects to plants, soil, health of man and animal during their proper use and do not pose unacceptable risk to environment and nature,

b) they have a permit issued by the ministry according to the statement of the body designated by the Ministry of Health and of the Ministry of the Environment.

Registration for placing on the market and use

Article 38

(1) Yield enhancing substances can be registered based on the application by the manufacturer, distributor or importer. The application shall state that the product meets requirements under Article 37. Data and samples regulated by another order of legislation and necessary for the evaluation of yield enhancing substances shall be attached to the application for registration.

(2) At least 8 days prior to the arrival of the yield enhancing substance, the Central Service shall be notified if import of the registered product of foreign origin is intended for Hungarian distribution by other than the holder of the registration indicated in the document.

(3) If, based on the supplied data or the submitted documentation, the product is not likely to meet the requirements under Article 37, the ministry may provide for submission of addition documents and samples.

(4) Issuance of the registration shall be decided within six month of the complete submission of the documents and samples.

(5) In the registration document of the yield enhancing substances, the ministry determines the necessary regulations for application, particularly the intended uses, the volumes to be applied, the requirements for application needed to protect the human and animal health as well as the environment and nature, the persons entitled for use and other conditions for placing on the market and use.

(6) If, based on the assessment of documents and testing the samples, it is determined that the product does not meet the requirements under Article 37, the ministry may refuse the application for registration.

Article 39

The applicant shall notify the ministry on any modifications, alterations in the product properties in relation to the registration document within 8 days.

Article 40

- (1) The registration document is valid for 10 years from the issuance, Renewal of the registration document can be applied for.
- (2) The ministry can modify the registration at its own initiative or on request if justified by scientific or professional aspects.
- (3) The registration document shall be withdrawn if
 - a) the holder requests it,
 - b) any of the registration conditions changes after granting the registration and they are not fulfilled by the holder in the form of data supply,
 - c) based on new knowledge it can be demonstrated that the yield enhancing substance, if used as prescribed, imposes risk to the human health or to the environment including crops specified in the registration document.
- (4) Instead of withdrawal, the ministry may provide for suspension of the registration for a certain period. During the suspension registration, the yield enhancing substance cannot be marketed.
- (5) If the competent Service participating in the registration procedure makes steps for reviewing the registration during the validity of the document, the measures under paragraph (3)-(4) shall apply if justified by the review.

Test for the stability of yield enhancing substances

Article 41

- (1) The ministry may check the compliance of the product with the requirements under Article 37 even after the issuance of the registration document.
- (2) If, based on the check, the registered product does not meet the registration requirements, the ministry may withdraw the document. In case of withdrawal, the holder of the registration document shall handle the stocks at the users and distributors according to the withdrawal decision.
- (3) The list of yield enhancing substances and amendments to the list shall be published in the official journal of the ministry.

Experimental use

Article 42

- (1) The yield enhancing substances can be used for experimental purposes if they are not likely to cause harmful effects to crops, soil, human and animal health and do not impose risks to the environment and nature.
- (2) Trials with non-registered products or for non-registered uses, other than laboratory and micro-plot experiments can be made only upon request, if special permit is obtained from the ministry

CHAPTER 7

PROTECTION OF THE ENVIRONMENT AND NATURE

Article 43

- (1) Any plant protection activity shall be made targeting the pest, reasonably in space and time using the proper equipment. Negligent or deliberate killing of organisms not harmful to crops, destruction of their habitat, prevention of their spread by means of pest management are forbidden.
- (2) Upon the land user's or producer's request, anyone authorized for wildlife management or the owner, renter, user of the nature conservation area is obliged to participate in plant protection treatment and in repelling game, if plant protection products toxic to wild, protected animals are used.

Article 44

- (1) In the vicinity of waters and water courses, any plant protection product harmful to aqueous organisms which cannot be used in waters and water courses pursuant to registration document, may only be applied and the spray prepared, according to a another order of legislation, keeping the specified distance from the bank.

(2) It is forbidden to store plant protection products along the whole length of the lakes Balaton, Velence and Tisza as well as the waters designated for bathing in a 1 km wide distance, on nature conservation areas and within a 1 km wide distance measured from their border, and within the protected areas of water works water resources, on areas exposed to flood and surface ponding. This restriction shall not apply to retail outlets and to volumes below 25 kg stored by producers for their own use.

(3) Any plant protection activity is forbidden on the inner buffer zones of water works and water resources. On the external buffer zones as well as on hydrological buffer zones regulated by another order of legislation, any plant protection product can be used only with the previous approval obtained from the competent official body of water management or from the body designated by the Ministry of Health.

Article 45

(1) It is forbidden to treat crops visited by honeybees with plant protection products harmful to honeybees during the period from bud burst to petal fall, except for the measures under paragraph (2). The prohibition applies also before and after flowering of the crop, if high populations of honey flowers are in the field or its vicinity or if the crop is visited by honeybees for other reasons.

(2) If the crop, during flowering, can only be protected from quarantine or regulated nonquarantine or other pests affecting the crop by using plant protection products harmful to honeybees, a pest management programme safe for bees shall be applied as specified in the registration document.

(3) The producer shall notify the competent local notary, by 9 a.m. of the working day before the beginning of the treatment, at the latest, of the planned place, starting date, expected end of the chemical treatment as well as the name of the plant protection product, if the targeted treatment cannot be carried out during flowering of the crop or the period specified under paragraph (1), by using plant protection products or pest management programme safe for honeybees.

(4) Honeybees can only be moved in a 5 km zone of the place to be treated (hereinafter: endangered zone) either according to the registration document of the particular plant protection product, or if no indications for honeybees is specified therein, only after flowering of the treated crop.

(5) The beekeeper shall inform the notary on the bee death suspected to be the result of chemical treatment within 3 days of its observation or the end of the chemical treatment, at the latest. The notary shall notify the Service and the official veterinarian.

CHAPTER 8

PROTECTION OF HUMAN HEALTH

Article 46

(1) Information on the application of plant protection products and yield enhancing substances in accordance with Article 12(2) and Article 38(5) shall be given to the users.

(2) The application of plant protection products and yield enhancing substances shall be used in a way not impose risk to the health of the population as well as not to increase their exposure of the inhabitants.

(3) The employer, the person providing the plant protection service or, in case of work done for personal purposes, the user are responsible for safe activity not harmful to the health or the environment during any activity made with the plant protection products and yield enhancing substances.

CHAPTER 9

INDEMNIFICATION

Article 47

(1) In cases of partial or complete destruction of the plant stand of commercial producers due to quarantine measures, the producer is entitled to have a partial indemnification for alleviating damages in substance property from the government, other than cases listed in paragraph (2). The ministry makes the decision on indemnification.

(2) No indemnification is due:

a) to plants, plant products imported in the country not in compliance with regulations or in spite of the prohibition (including non-native organisms introduced for research),

b) if the producer has not fulfilled, without delay, the obligation of notification, in case of suspected quarantine pests,

- c) if the buyer was aware of the infestation of the purchased crop with quarantine pests or, with due diligence, could have obtained the necessary information,
 - d) if the plants were grown for hobby, scientific, experimental, laboratory, servicing purposes,
 - e) to plants, plant products grown, marketed by infringing phytosanitary regulations (including changes of quarantine pests for scientific purposes),
 - f) if in the phytosanitary measures taken in the particular case responsibility of the land user or producer was involved.
- (3) No indemnification is due to beekeepers who have not announced their establishment.
- (4) Expenses for indemnification shall be covered from the central budget.
- (5) Measures under paragraph (1)-(4) may only be used exclusively for quarantine measures provided for in this Act.

CHAPTER 10

PLANT PROTECTION ADMINISTRATION, OFFICIAL MEASURES

Set-up of plant protection administration

Article 48

- (1) Plant protection administration is provided by
- a) minister,
 - b) ministry,
 - c) Central Service,
 - d) Service,
 - e) plant protection inspectors and soil conservation inspectors and
 - f) notary of the local government.
- (2) Hungarian Chamber of Plant Protection Professionals and Plant Practitioners participates in the performance of plant protection activities in accordance with a separate Act.

Plant protection responsibility, scope of activity and authority of the minister

Article 49

Direction of plant protection is the minister's responsibility who

- a) determines the plant protection tasks in accordance with international obligations and with the goals of the agricultural sector of the country,
- b) establishes the set-up of plant protection administration,
- c) determines the scopes of activity, competencies of plant protection and plant health approves organizational rules of the Service,
- d) designates BIPs,
- e) fulfils tasks related to the control of quarantine, regulated non-quarantine and other plant pests, and to prevent mass outbreaks (including professional legislation and check of plants, plant products in international trade),
- f) may initiate, in exceptional situations caused by pests, public work, use of facilities conveyance, plant protection and other equipment and other objects against payment, as well as the participation of armed forces and police.

Responsibility, scope of activity and authority of the ministry

Article 50

The ministry

- a) directs, supervises and controls the institutions of the plant protection administration;
- b) regulates phytosanitary inspection of export, import and transit of plants, plant products, the related inspection procedures, methods and the necessary measures;
- c) takes measures in special cases against introduction, spread, mass outbreak of pests and to prevent their damage;
- d) designates protected zones for some pests;

- e) as authority of the first instance, issues permit for placing on the market and use of products subject to registration including introduction of plants, plant products treated with products not registered in Hungary but otherwise subject to registration;
- f) participates in determining requirements of plant protection curriculum in medium and higher education as well as post-gradual training and supervises that they are met;
- g) determines criteria for examination of plant protection qualifications and;
- h) determines the system and programme of compulsory training.

Plant protection measures of the ministry

Article 51

In order to perform objectives specified under Article 1, the ministry is entitled to make the following measures:

- a) may oblige the Central Service, the Service and the land user and producer for preventing introduction and spread, for monitoring occurrence and increase of population of pests, as well as for carrying out treatments;
- b) may oblige the Central Service, the Service as well as the land user and producer for the control of pests by disinfection or destruction of the infected objects (soil, growing media, plants, plant products, building, construction, facility, equipment, conveyance) and, for this purpose, may provide for or prohibit application of particular products, equipment or techniques;
- c) may provide for or prohibit use of specific growing media for propagating or producing particular plants;
- d) may restrict agricultural use of real estates, lands exposed to infestation and may decide on quarantine of such lands;
- e) may prohibit or restrict use of seeds, propagating materials or breeding materials not accepted for phytosanitary reasons;
- f) may prohibit or restrict, from phytosanitary aspects, production of certain susceptible plant species and varieties;
- g) in case specified in provisions, may prohibit or restrict, if infected or suspected to be infected with certain pests as well as based on the results of pest resistance studies, placing on the market of such plant parts which are not suitable for commercial growing;
- h) may oblige the Central Service, the Service as well as the land user and producer for the control of certain pests on areas infected, suspected to be infected or exposed to infestation, or for keeping it free from those pests;
- i) in case specified in provisions may prohibit or restrict, prescribe permission or notification of transport, placing on the market and storage of certain pests and objects harbouring pests;
- j) in case specified in provisions, may prohibit or restrict, prescribe permission or notification of rearing and keeping of quarantine pests or organisms not native in Hungary, as well as any work with them;
- k) may order disinfection, treatment or cleaning of lands, buildings, constructions, facilities or containers which are used for storing, plants or plant products, and for this purpose, may order or prohibit using certain materials, equipments or techniques;
- l) regulates test and diagnostic methods of plant protection and phytosanitary procedures;
- m) provides for the introduction of international regulations;
- n) regulates phytosanitary requirements of planting and propagating materials and their control.

Responsibility, scope of activity and authority of the Central Service

Article 52

The Central Service is a budgetary and administrative institution established by a ministerial provision, having legal entity and partially independent economic jurisdiction which performs plant protection and other tasks specified in provisions as follows:

- a) as authority of first instance, allows entry of consignments intercepted for phytosanitary reasons and determines technical conditions for their inspection at the first place of destination;
- b) in cases specified in provisions, as authority of first instance, gives phytosanitary permission for the entry of plants, plant products;
- c) makes official statements, at request, on the Hungarian import phytosanitary regulations;
- d) in order to back its administrative measures, operates its official laboratories, performs plant protection, phytosanitary supervisory inspections;
- e) as authority of first instance, decides on eventual use of products subject to registration with expired validity or initiates their qualification as wastes;

f) cooperates with the national organization of Hungarian Chamber of Plant Protection Professionals and Plant Practitioners.

Responsibility, scope of activity and authority of the Service

Article 53

(1) The Service is a budgetary and administrative institution established by a ministerial provision, having legal entity and partially independent economic jurisdiction which performs plant protection and other tasks specified in provisions.

(2) The minister may specify the competence of the Service for several counties in order to fulfil certain administrative tasks.

(3) The director of the Service

a) operates the BIPs;

b) in order to back its administrative measures, operates its official laboratories determined by the ministry, performs plant protection, phytosanitary supervisory inspections;

c) checks the producers' plant protection action activity provides for compulsory treatment on areas outside and within the localities, in cases specified in Article 7(2) to control certain pests and treatment of public interest;

d) takes measures in the form of official permits, administrative statements, provisions for restriction, prohibition, quarantine, compulsory plant protection procedures, destruction, issuance of certificates;

e) in justified cases, and against payment and refund expenses, organises work of public interest carried out by plant protection and other professionals;

f) takes samples from soils, at the producers and at market places and analyses the residues of plant protection products and other toxic materials of plants, plant products;

g) performs phytosanitary inspections of consignments of regulated plants, plant products, production and distribution of seeds, propagating and planting materials, inspections at the place of production, conveyance and storage places;

h) enrolls producers in the phytosanitary register and checks observation of registration conditions;

i) carries out trials with products subject to registration;

j) checks quality of the products subject to registration, observation of regulations for storage, distribution, transportation, sales, purchase and use, as well as record keeping;

k) tests the quality of products subject to registration with expired validity, arranges their further uses;

l) issues administrative statement for the evaluation and licensing of application for plant protection services and takes measures for their restrictions withdrawal;

m) issues permits for purchase and use of plant protection products with marketing categories I and II, organises, participates in, plant protection training, reviews project programmes of non-formal education;

n) imposes plant protection penalties in cases specified by provisions;

o) cooperates with competent organizations of the Hungarian Chamber of Plant Protection Professionals and Plant Practitioners.

Responsibility, scope of activity and authority of the plant protection inspector j

Article 54

(1) A plant protection inspector is a person authorized by the director of the Service who acts as an official person for a district or place (BIP).

(2) A plant protection inspector

a) checks the land users' or producers' plant protection activity to control pests, application, health and chemical safety, the existence of qualification needed for the use of products subject to registration, observation of regulation on the storage of chemicals, validity of purchase permission of plant protection products as well as record keeping;

b) checks observation of regulations on quality, packaging, labelling, storage, warranty, transport, distribution and record keeping of products subject to registration at the facilities of manufacturer, formulator, distributor and persons providing plant protection service, in addition, checks existence of safety data sheets in cases specified in provisions;

c) checks whether the regulated articles in the export, import and transit trade comply with the phytosanitary regulations and also checks places of production, storage, loading, dispatch and distribution of seeds, propagating and planting materials and other regulated plants;

- d) checks the quantity of contaminants originating from products subject to registration found in plants and plant products in the environment, production process and market places and takes the necessary measures;
- e) takes measures in case of heavy infestation or of exceptional risk caused by organisms harmful to crops other than quarantine and regulated non-quarantine pests;
- f) detects quarantine and regulated non-quarantine pests, provides for disinfection or destruction in case of their occurrence and check the execution;
- g) supervises regular performance test of plant protection machines;
- h) monitors occurrence, spread, increase of population of the pests of economic importance, the completion and efficiency of treatments carried out by the producers in the particular districts, calls for treatments all those who, due to their negligence, impose unacceptable risk to the production safety in the vicinity or to public health;
- i) provides for prohibition, restriction and quarantine on production, harvest, storage, transport, import, export, placing on the market, trial, use and application;
- j) may check, specify conditions, suspend, prohibit plants, plant products and their growing, storage, distribution, as well as their means of conveyance, furthermore transportation, storage, distribution, use of products subject to registration, and use of facilities, equipment, and may provide destruction of plants, plant products and packaging;
- k) may take official samples free of charge;
- l) may have access to business certificates related to plant protection;
- m) may have access to real estates, shops, farm facilities in order to prevent any risk imposed by products subject to registration or by quarantine pests, even in the case if they are used also for dwelling, furthermore may check means of conveyance.

Article 55

The plant protection inspector is qualified as an official person. He/she shall bear a licence with photo regulated by other order of legislation and approved by the ministry. It entitles him/her to perform the official duties.

Responsibility, scope of activity and authority of the soil conservation inspector

Article 56

- (1) The soil conservation inspector is qualified as an official person. He/she shall bear a licence with photo regulated by other order of legislation and approved by the director of the Service. It entitles him/her to perform the official duties.
- (2) With regard to the yield enhancing substances, the soil conservation inspector
 - a) checks observation of regulations on quality, packaging, labelling, storage, warranty, transport, distribution and record keeping of yield enhancing substances, in addition, checks existence of safety data sheets in cases specified in provisions;
 - b) checks the quantity of contaminants originating from yield enhancing substances found in plants, plant products and environment, in the production process and market places and takes the necessary measures;
 - c) may take samples during the inspection laid down in items a)-b).
- (3) The soil conservation inspector may have access to business certificates related to yield enhancing substances.

Plant protection responsibility, scope of activity and authority of the notary of the local government

Article 57

The notary

- a) may oblige the related land user and producer to control pests (other than quarantine pests) in inner areas;
- b) in case of negligence of item a), provides for treatment of public interest;
- c) checks at the market place whether the producer has the phytosanitary certificate regulated by other order of legislation necessary for placing on the market of plants, plant products at the producer, should it fail, prohibits the sale;
- d) in case of any prior notification by producers on plant protection activities harmful to honeybees and subject to notification, informs without delay, according to local traditions, the owners or renters of beehives within a radius of 5 km of the place of treatment (endangered zone) about the place, date of treatment, the: plant protection

product to be used and at the same time issues notice for placing honeybees out of the endangered zone or otherwise, to safe places;

e) informs beekeepers on the Service's decision on prohibition for establishment.

Article 58

(1) Provisions of Act No. 4 of 1957 on general rules of administrative procedures shall apply to the plant protection administrative procedures with the differences specified in this Act.

(2) If, at the first instance, the plant protection inspector acts, the acting authority is a) (2) items a), b), e), g), h), i) and 1), or b) the director of the Central Service, at the second instance for the measures under Article 54(2)c), d), f) and j).

(3) If the Service acts at the first instance, the acting authority at the second instance is the Central Service.

(4) If the Central Service acts at the first instance, the acting authority at the second instance is the ministry.

(5) If the notary acts at the first instance, the acting authority at the second instance is the director of the Service.

CHAPTER 11

PAYMENT OBLIGATION AND PLANT PROTECTION PENALTY

Article 59

(1) Other order of legislation applies to the fees for official inspections, checks, registration, as well as to the maintenance fee for the registration document issued for plant protection products. In case of delayed payment, the interest equal to the current basic refinancing rate shall be paid.

(2) Other order of legislation applies to the share of the fees collected during the registration procedures for preparing the administrative statements.

Plant protection penalty y

Article 60

(1) Plant protection penalty shall be imposed on any person who

a) infringes the obligation for immediate eradication of infestation by quarantine pests, contribute to the spread of quarantine pests in any way, infringes phytosanitary measures;

b) performs any activity with plant protection products which imposes risk to human and animal health or the environment and to plants important for the landscape;

c) by neglecting the control of pests, imposes risks to safety of agricultural production or, by allowing significant spread of pests, threatens safety of production in the region and the growing district, furthermore, does not observe the plant protection measures or carry out the treatments;

d) manufactures, distributes, announces or recommends products subject to registration without licence or in a way different from the licence;

e) illegally distributes products subject to registration without the required conditions for qualifications, without valid licence for distribution, sale in the country;

f) manufactures a product subject to registration without compliance to the label on the packaging or uses a label which may mislead consumers about the manufacturer, distributor;

g) does not fulfil the obligation for submission of analytical grade active substances;

h) infringes prohibition for beekeepers on migration due to plant protection activity.

(2) Plant protection penalty may be imposed on any person who

a) infringes the obligation for notification on infestation by quarantine pests;

b) interferes with chemical treatments;

c) interferes with administrative activity of the plant protection authorities, neglects their measures, interferes with carrying out official treatments or those of public interest;

d) infringes regulations, restrictions on plant health, trials, production, destruction, manufacturing, formulation, packaging, storage, transport, use, servicing and sale or does not fulfil the obligation for data supply, record keeping, application for supplier registration;

e) applies plant protection product subject to registration with machines or equipment qualified unsuitable for plant protection purposes or without valid technical licence in a commercial farm;

f) omits the obligation for notification on plant protection activity harmful to honeybees;

g) does not fulfil the obligation for reporting according to Article 24 concerning domestic sales of plant protection products; h) does not fulfil the obligation for reporting according to Article 38(2) concerning registered yield enhancing substances of foreign origin;

(3) The notary is entitled to impose penalty in cases of paragraph (1)b),c) and paragraph (2)b),c) if the activity is made in areas within the locality;

(4) The Service is entitled to impose penalty a) in cases of paragraph (1)b),c) and paragraph (2)b),c) if the activity is made in outside areas b) in cases of paragraph (1)a),d)-h) and paragraph (2)a),d)-h).

(5) No penalty can be imposed if one year has lapsed from the date of information reaching the Service or the notary and three years from the date when the activity was carried out.

Article 61

(1) The director of the Service or the notary decide on the penalty.

(2) The lowest amount of the penalty is HUF 20.000, the highest is HUF 1.000.000. The penalty shall be paid to the account of the deciding Service or the local government. In case of default, the penalty is charged with the default interest which is the double of the current rate of interest of the National Bank. The penalty and the default interest shall be collected as taxes, collected by the Tax and Financial Auditing Office.

(3) Payment of the penalty does not, however provide relief from responsibility for infringements or criminality.

(4) The imposed penalty is the income of the Service or the local government.

Article 62

(1) The Service may confiscate the plants, plant products, plant protection products, yield enhancing substances, plant conditioners, adjuvants not meeting the requirements for placing on the market and use. All expenses of Service incurred from confiscation or tile related activities shall be paid by the unauthorized supplier or user.

(2) Expenses incurring from decontamination of confiscated materials qualified as dangerous wastes shall be paid by the distributor.

CHAPTER 12

MISCELLANEOUS US AND FINAL CLAUSES

Harmonisation with the legislation of the European Union

Article 63

(1) This Act comprises provisions in accordance with Article 3 of Act No. 1 of 1994 publishing the Europe Agreement on the establishment of associations between the Hungarian Republic and the European Communities and their Member States signed on 16 December 1991 in Brussels, complying with the following regulations of the European Communities:

- Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction of organisms harmful to plants and plant products into the Community and their spread within the Community,
- Council Directive 91/414/EEC concerning the placing of plant protection products on the market,
- Commission Directive 92/90/EEC of 3 November 1992 establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration.

Implementation

Article 64

(1) This Act enters into force on day 90 of its publication except for Articles 7, 31(3)e), 34(3), 48(2), 52(f), 53(3)o) and 57b). Articles 7 and 57b), Articles 34-36 shall apply from 1 January 2001, 1 January 2003, resp., while Articles 31(3)e), 48(2), 52(f) and 53(3)o) shall apply from the date of entering into force of the Act on the Hungarian Chamber of Plant Protection Professionals and Plant Practitioners.

(2) In the case of products subject to registration, the Act can only be applied to procedures started after entering into force. The registration documents for placing on the market and use issued before the date of enforcement of the Act shall be reviewed in accordance with the other order of legislation of the ministry for re-registration.

(3) On the date of entering into force of this Act the Statutory order 2 of 1988 on plant protection as well as its amendment by Article 33(1) of the Act 27 of 1998 on biotechnology, and by Article 40 of the Act 20 of 1991 on

the responsibility and scope of activity of some central subordinated bodies as well as by Article 15(4)c) (referring to „plant protection authority“) of Order of the Council of Ministers 21/1986 (VI.2.) on the protection of air cease to be in force.

Registration

Article 65

- (1) The government is authorized to establish regulations on
 - a) determining expenses of treatments of public interest and funds from the budget allocated for the prevention of epidemics and
 - b) detailed rules for retail and wholesale trade of plant protection products.
- (2) The minister of agriculture and regional development is authorized to create detailed regulations on
 - a) making phytosanitary inspections of export, import and transit of plants, plant products, preventing introduction, spread, establishment of quarantine and regulated non-quarantine pests, carrying out official treatments and establishing obligations for registration and data supply related to phytosanitary activities as well as issuing phytosanitary certificates and plants plant passports,
 - b) plant protection, prevention of epidemics, producers' plant protection activities and treatments of public interest, personal, material and advertising conditions for placing on the market and use of plant protection products, record keeping, ground and aerial application of plant protection products as well as plant protection qualifications, plant: protection trials, plant protection measures and plant protection checks.
- (3) The minister of agriculture and regional development, agreeing with the minister of health and the minister of environment, is authorized to create detailed regulations on a) authorizing the placing on the market and use of plant protection products, active substance, classification, storage, packaging, labelling, transport, return, of plant protection products, experimental use of plant protection products and its conditions as well as the maintenance fee for registration and sharing fees of registration procedures, b) authorizing, storing, placing on the market and using of yield enhancing substances.
- (4) The minister of agriculture and regional development, agreeing with the minister of health and the minister of environment, is authorized to create detailed regulations on treatments of packaging wastes contaminated with plant protection products.
- (5) The minister of health, agreeing with the minister of agriculture and regional development is authorized to create joint regulations on the maximum residue levels of plant protection products and maximum toxic metabolites of yield enhancing substances in plants and plant products.
- (6) The minister of agriculture and regional development, agreeing with the minister of health, the minister of environment and the minister of finances is authorized to create regulations on fees of plant protection administration and servicing.

GÖNCZ Árpád
President of the
Republic

Dr. SZILI Katalin
Deputy Chairperson
of the Parliament