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CONTROL OF PLANTS ACT (CHAPTER 57A)

CONTROL OF PLANTS (ACCREDITATION, CERTIFICATION AND INSPECTION MARKS) RULES 2019

ARRANGEMENT OF RULES

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In exercise of the powers conferred by section 49 of the Control of Plants Act, the Minister for National Development makes the following Rules:

Citation and commencement

1. These Rules are the Control of Plants (Accreditation, Certification and Inspection Marks) Rules 2019 and come into operation on 1 April 2019.

Definitions

2. In these Rules, unless the context otherwise requires —

“advertisement” includes any notice, circular, pamphlet, brochure, sign, label, wrapper, invoice or other document, and any public announcement or notice made orally, in writing or by means of producing or transmitting light or sound;

“approved standard” means the standard for a system, scheme or product accepted by the Board for the purpose of issuing a certificate for that system, scheme or product, as the case may be;

“certificate” means a document issued by the Director-General under these Rules —

(a) attesting to the conformity of a system, scheme or product with an approved standard; and

(b) authorising the use of a certification mark;

“certificate holder” means a person who holds a valid certificate;

“certification mark” means a certification mark of the Board specified in the National Parks Board (Certification Marks) Notification 2019 (G.N. No. S 270/2019).

Application for or renewal of certificate

3.—(1) Every application for the issue or renewal of a certificate must be —

(a) made to the Board in the form or manner required by the Director-General; and

(b) accompanied by the information and documents required by the Director-General.

(2) In determining whether to issue or renew a certificate, the Director-General may inspect the system, scheme or product in respect of which the application has been made and, if necessary, take any sample of any article, material, substance or thing for further examination.

(3) The costs of any inspection or examination under paragraph (2) must be borne by the applicant for the certificate.

Issue of certificate

4.—(1) The Director-General may, subject to such conditions as he or she thinks fit, issue a certificate to the applicant if the Director-General is satisfied that —

- (a) the system, scheme or product in respect of which the application is made conforms to the approved standard; and
- (b) the applicant has in operation procedures for inspection, monitoring and testing to ensure that the system, scheme or product in respect of which the applicant has applied for a certificate continue to meet the approved standard for the duration of the certificate.

(2) In determining whether to issue a certificate, the Director-General may consider —

- (a) the character and fitness of the applicant to be issued with a certificate, or where the applicant is a body corporate, the character and fitness of the members of its board of directors or management committee;
- (b) the ability of the applicant to comply with the requirements of the Board for certification of the system, scheme or product in respect of which the application is made; and
- (c) the suitability of the applicant's business premises, including facilities and equipment in those premises, for the system, scheme or product in respect of which the application is made.

(3) Every certificate must be in such form as the Board determines.

(4) The Director-General may at any time add to, vary or revoke any of the conditions subject to which a certificate has been issued.

Director-General may refuse to issue certificate

5.—(1) The Director-General may, in his or her discretion, refuse to issue a certificate to an applicant if —

- (a) the applicant has failed to satisfy the Director-General of any of the matters specified in rule 3(1) or (3);
- (b) the applicant has failed to satisfy the Director-General of any of the matters specified in rule 4(1); or
- (c) for any other reason, the Director-General is of the opinion that it is undesirable to issue a certificate to the applicant.

(2) Where the Director-General is of the opinion that an application for the issue of a certificate must not be granted, the Director-General may give to the applicant an opportunity of showing cause why the application should not be refused.

(3) Where the Director-General refuses to issue a certificate, the Director-General must, if requested to do so by the applicant, state in writing the reasons for the refusal.

Duration of certificate

6. Every certificate is valid for a period of 12 months, or such other period as may be specified in the certificate, and may be renewed upon its expiry.

Certificate not transferable or assignable

7. A certificate holder who is authorised under these Rules to use a certification mark must not transfer, assign or otherwise dispose of the certificate.

Suspension or cancellation of or refusal to renew certificate

8.—(1) The Director-General may suspend, cancel or refuse to renew a certificate if the Director-General is satisfied that —

- (a) the certificate was obtained by fraud or misrepresentation;
- (b) the system, scheme or product to which the certificate holder applies or has applied the certification mark no longer conforms to the approved standard;

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- (c) the certificate holder has contravened —
- (i) any provision of the Act or these Rules; or
 - (ii) any condition subject to which the certificate was issued;
- (d) the certificate holder has ceased to carry on business in relation to the system, scheme or product in respect of which the certificate holder was issued a certificate; or
- (e) the certificate holder is for any other reason not fit to continue to hold the certificate.
- (2) The Director-General must, before suspending, cancelling or refusing to renew any certificate under paragraph (1) —
- (a) give to the certificate holder notice in writing of the Director-General's intention to do so and the grounds therefor; and
 - (b) in the notice mentioned in sub-paragraph (a), call upon that certificate holder to show cause within such time as may be specified in the notice as to why the certificate holder's certificate should not be suspended or cancelled or should be renewed.
- (3) If the certificate holder to whom a notice has been given under paragraph (2) —
- (a) fails to show cause within the period of time given to the certificate holder to do so or such extended period of time as the Director-General may allow; or
 - (b) fails to show sufficient cause,
- the Director-General may give notice in writing to that certificate holder —
- (c) of the date from which the suspension or cancellation of the certificate holder's certificate is to take effect; or
 - (d) that the certificate holder's certificate is not or is not being renewed.

(4) While any certificate is suspended under this rule, the certificate holder must not, for the purposes of these Rules, be regarded as having in force a valid certificate, but immediately on the lifting or expiry of the period of suspension, that certificate is revived as from the date of such lifting or expiry, as the case may be.

Certificate holder to remove certification mark, etc., when certificate has been suspended or cancelled or has not been renewed

9. Any certificate holder whose certificate has been suspended, cancelled or has not been renewed by the Director-General under rule 8 must —

- (a) unless the Director-General otherwise directs, immediately take such steps as are reasonable and necessary —
 - (i) to remove the certification mark from every product or advertisement in the certificate holder's possession or under the certificate holder's control to which the certificate holder has applied the certification mark; or
 - (ii) to discontinue the sale or supply of every such product; and
- (b) where the certificate is cancelled, return the certificate to the Board within such time as the Board may specify.

Lifting of suspension of certificate

10. The Director-General may lift the suspension of a certificate after he or she is satisfied that corrective actions have been duly performed by the certificate holder within the permitted time.

Duty of certificate holder

11.—(1) Every certificate holder must comply with the Act, these Rules and any condition subject to which the certificate was issued.

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- (2) It is the duty of every certificate holder to —
- (a) ensure that the system, scheme or product to which the certificate holder applies the certification mark conforms at all times to the approved standard;
 - (b) establish and maintain a system of control and monitoring, including keeping such complete and up-to-date records as specified by the Director-General, to allow verification that the approved standard is met;
 - (c) keep such complete and up-to-date records, as specified by the Director-General, to allow for product traceability; and
 - (d) allow the Director-General to conduct inspections from time to time, for the purpose of ascertaining whether —
 - (i) the system, scheme or product in respect of which the certificate was issued continues to meet the approved standard; and
 - (ii) the certification mark is being applied by the certificate holder in accordance with these Rules and the terms and conditions of the certificate.

Certificate holder to notify Board of change

12.—(1) Where a certificate holder makes any change to the system, scheme or product in respect of which a certificate has been issued to the certificate holder, being a change that the Board specifies as a change to which this rule applies, the certificate holder must, within such time as the Board may specify, notify the Board in writing of that change.

(2) Upon notification by the certificate holder in accordance with paragraph (1), the Director-General may conduct an inspection and re-certification as the Director-General considers necessary.

Improper use of certification mark

13.—(1) A person must not use the certification mark, or a colourable imitation of any certification mark, in respect of any product or process or in any trade mark or design, unless the person —

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- (a) holds a valid certificate authorising the person to use that certification mark in respect of that product or process or in that trade mark or design; or
- (b) is otherwise authorised by the Board to use that certification mark.

(2) A person must not use any report or certificate issued or purportedly issued by or on behalf of the Board to convey the impression that the person holds a valid certificate, when in fact the person does not.

(3) A person must not forge or without lawful authority alter a certification mark, or a report or certificate issued by the Board.

(4) A person who, without reasonable excuse, contravenes paragraph (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Other penalty

14. A person who contravenes rule 7, 9, 11 or 12(1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Made on 1 April 2019.

OW FOONG PHENG
Permanent Secretary,
Ministry of National Development,
Singapore.

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