

Plant Protection Act

Passed 15 March 2000

(RT¹ I 2000, 29, 169),

entered into force 17 April 2000,

amended by the following Acts:

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336;

17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides the plant health requirements and the bases for ensuring the safety of plant protection products for human and animal health and the environment, and regulates the organisation of plant health protection.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 2. Plant and plant product

(1) A plant is a living organism or its part fixed in a site or temporarily removed therefrom which synthesises organic matter necessary for life from inorganic matter.

(2) For the purposes of this Act, parts of plants are:

- 1) fruits, vegetables and berries, except in deep-frozen form;
- 2) root crops, except in deep-frozen form;
- 3) tubers, corms, bulbs and other parts and variants of roots;
- 4) stems, rhizomes and other variants of stems;
- 5) cut flowers;

- 6) cut trees with leaves;
- 7) branches with leaves;
- 8) meristem cultures and other tissue cultures of plant origin;
- 9) seeds intended for sowing.

(3) For the purposes of this Act, a plant product is unprocessed or primarily processed material of plant origin which is non-viable but may spread pests.

§ 3. Raw wood

(1) For the purposes of this Act, raw wood is a cut tree together with bark or with bark removed, with a round cross-section, cuttings, chips, sawdust and wood waste, wooden packaging material and wood shavings for separating goods.

(2) Depending on the level of primary processing, the requirements applicable to plants or plant products apply to raw wood unless otherwise provided for in this Act.

§ 4. Pests and harmful organisms

(1) Pests are animals, other plants, fungi, micro-organisms or viruses which harm plants or plant products.

(2) Organisms which do not occur in Estonia, and organisms which occur in Estonia and the spreading of which is subject to supervision and against which the application of control measures is compulsory, are deemed to be harmful.

(3) The list of harmful organisms shall be established by a regulation of the Government of the Republic.

§ 5. Plant protection products and active substances thereof

(1) Plant protection products are products which contain one or several active substances which are prescribed to protect plants and plant products from pests and to destruct undesirable plants, parts of plants or pests. Growth regulators prescribed to affect the life of plants, except nutrition elements and nutrients, are also plant protection products.

(2) Active substances are substances or micro-organisms which are prescribed to have a general or specific effect on pests, plants or plant products.

(3) This Act applies to plant protection products which contain genetically modified organisms in so far as not otherwise provided for in the Deliberate Release of Genetically Modified Organisms into the Environment Act (RT I 1999, 10, 151; 2001, 23, 130; 97, 603; 2002, 63, 387).

§ 6. Plant corroborants and additives

(1) Plant corroborants are substances which are prescribed to increase the resistance of plants to harmful organisms, except nutrition elements and nutrients.

(2) Additives are substances of natural or synthetic origin which are added in order to improve the effect of plant protection products but which are not used separately or as main ingredients of plant protection products.

(3) Requirements applicable to plant protection products apply to plant corroborants and additives manufactured, imported or marketed separately from plant protection products unless otherwise provided for in this Act.

§ 7. Plant protection equipment

The p Plant protection equipment is a machine or equipment prescribed for pest control or use of plant protection products.

Chapter 2

Plant health

Division 1

Organisation of Plant Health Protection

§ 8. Plant health

(1) For the purposes of this Act, plant health is the condition of a plant, plant product, plot of land, soil, plantation, sown crop, substratum or other object which may be contaminated with harmful organisms (hereinafter other object).

(2) Plants, plant products and other objects are either free from harmful organisms or contaminated, in danger of contamination or suspected of contamination with harmful organisms.

§ 9. General requirements for plant health

(1) Plants, plant products and other objects shall be free from harmful organisms.

(2) A person who possesses a plant, plant product or other object shall ensure compliance with the plant health requirements provided for in subsection (1) of this section unless otherwise provided for in this Act.

§ 10. Special requirements for plant health

(1) The sTh The special requirements for plant health shall be established concerning the origin, properties and manner of processing of plants, plant products and other objects, and concerning documents certifying these circumstances.

(2) The special requirements for plant health apply upon importation, manufacture, storage and marketing of plants, plant products and other objects, and in other stages depending on the nature of the specific requirement.

(3) The special requirements for plant health shall be established by a regulation of the Government of the Republic.

§ 11. Prohibition on spreading pests

(1) It is prohibited to spread harmful organisms.

(2) The creation of favourable conditions for the spreading of harmful organisms which is expressed by failure to notify of harmful organisms or apply control measures is also deemed to be the spreading of harmful organisms.

(3) A person who causes the spreading of harmful organisms is required to compensate for the costs relating to the control thereof and damage caused.

§ 12. Obligation to notify

A person who ascertains the occurrence of harmful organisms or who suspects the occurrence of harmful organisms shall notify the supervisory agency promptly thereof.

§ 13. Contamination, danger of contamination and suspicion of contamination

(1) Plants, plant products and other objects to which harmful organisms have spread are deemed to be contaminated. A plot of land, a building or construction in the vicinity of such plant, plant product or other object containing plants which are suitable for spreading harmful organisms is in danger of contamination.

(2) Plants, plant products and other objects which the supervisory official declares to be suspected of contamination on the basis of observation data or other relevant information are suspected of contamination. Things which were in contact with a contaminated plant, plant product or other object to which harmful organisms may have spread, or facilities where the contaminated plant, plant product or other object is taken are also suspected of contamination.

(3) The danger of contamination exists until destruction of harmful organisms. The suspicion of contamination exists until the results of supervision which confirm contamination or lack of harmful organisms become clear.

§ 14. Control measures against harmful organisms

(1) Restrictions applied in order to prevent the spreading of harmful organisms or destruction thereof in a prescribed manner are control measures against harmful organisms.

(2) Control measures against harmful organisms may be:

1) the restriction on cultivation for a specified term;

2) the obligation to select resistant crops and varieties;

3) the prohibition on use and delivery of goods which are contaminated, in danger of contamination or suspected of contamination;

4) the obligation to purify or destroy contaminated goods;

- 5) the obligation to organise control;
- 6) the obligation to destroy host plants.

§ 15. Control of harmful organisms

(1) Upon occurrence of harmful organisms, control measures established on the basis of this Act shall be applied.

(2) Control measures which are appropriate to the species of harmful organisms that occur on plants, plant products and other objects which are contaminated, in danger of contamination or suspected of contamination with harmful organisms shall be established by a regulation of the Government of the Republic.

§ 16. List of harmful organisms

The list of harmful organisms shall set out:

- 1) the harmful organisms the importation of which is prohibited;
- 2) the harmful organisms the importation of which together with plants, plant products and other objects is prohibited.

§ 17. Protected zone

(1) In an economically important area that has favourable conditions for the spreading of a harmful organism which has not adapted in that area, a protected zone with regard to that harmful organism may be created by a regulation of the Government of the Republic. A protected zone may cover the territory of a state or a part thereof. There may be several protected zones.

(2) Harmful organisms are deemed to be adapted if by the application of control measures the harmful organisms have not been eliminated from the area within two years.

§ 18. Plant health requirements of protected zone

(1) Depending on the harmful organisms and the location of a protected zone and in order to prevent the spreading and adaptation of the harmful organisms, the importation of plants, plant products and other objects into the protected zone may be organised only adhering to the plant health requirements of the protected zone. The plant health requirements shall be established with regard to these plants, plant products and other objects together with which the harmful organisms may spread.

(2) The Government of the Republic shall establish the plant health requirements of a protected zone.

§ 19. Use of harmful organisms for plant breeding, testing and other research

(1) Breeders and research and development institutions are permitted to organise the importation of harmful organisms and their host plants for plant breeding, testing and other research if they adhere to the plant health requirements.

(2) In order to prevent the spreading of harmful organisms and their host plants outside the premises which are intended for plant breeding, testing and other research, the requirements for importation and use of harmful organisms and their host plants in plant breeding, testing and other research shall be established by a regulation of the Government of the Republic.

Division 2

Organisation of Plant Health Protection upon Importation

§ 20. Prohibition on importation

It is prohibited to import:

- 1) harmful organisms, except in the cases and pursuant to the procedure provided for in § 19 of this Act;
- 2) plants, plant products and other objects contaminated with harmful organisms;
- 3) plants, plant products and other objects suspected of contamination;
- 4) plants, plant products and other objects from foreign states or a region thereof concerning which a prohibition on importation is established.

§ 21. Establishment of prohibition on importation

(1) The prohibition on importation specified in clause 20 4) of this Act shall be established concerning a foreign state or a region thereof from where harmful organisms may spread to Estonia together with imported plants, plant products or other objects.

(2) The prohibition on importation of such plants, plant products and other objects of a foreign state or a region thereof together with which harmful organisms may spread shall be established by a regulation of the Government of the Republic.

§ 22. Procedure for importation

(1) The importation of plants, plant products and other objects is permitted through the border customs posts prescribed therefor. A supervisory official of a customs post shall be notified of importation at least twenty-four hours before importation.

(2) The list of border customs posts prescribed for the importation of plants, plant products and other objects, and the requirements for the border customs posts shall be established by a regulation of the Government of the Republic. The purpose of the establishment of the requirements is to ensure the exercise of supervision pursuant to this Act.

(3) In ports, airports, railway stations and other transport terminals located at the customs border, the Plant Production Inspectorate has the right to obtain premises conforming to occupational health and safety requirements which are necessary for the exercise of supervision over goods, from the possessors thereof for use free of charge.

§ 23. Attestation of conformity of consignment (lot of plants, plant products and other objects) upon importation

(1) A phytosanitary certificate which certifies the phytosanitary conformity of plants, plant products and other objects which a consignment comprises, and which is issued by a supervisory agency of the country of origin shall accompany an imported consignment.

(2) If a consignment is transhipped, stored, unpackaged or undergoes another similar procedure in at least one of the countries which it passes through before arrival in Estonia, a copy of the phytosanitary certificate of the country of origin and the phytosanitary certificate issued by a country which it passed through last and where similar procedure was carried out shall accompany the consignment.

§ 24. Plant health control upon importation and simplified procedure for importation

(1) In the case of suspicion of contamination, a consignment shall be inspected before importation is permitted.

(2) The list of plants, plant products and other objects which are inspected in border customs posts shall be established by a regulation of the Government of the Republic.

(3) The procedure for the importation of plants, plant products and other objects, and the list and permitted quantities of plants, plant products and other objects permitted to be imported pursuant to a simplified procedure, and the simplified procedure shall be established by a regulation of the Government of the Republic.

§ 25. Inspection of consignment suspected of contamination

(1) A supervisory official shall take a control sample of a consignment which is suspected of contamination and shall suspend importation until the results of the tests performed on the control sample are obtained, but for not longer than ten working days. If it is necessary to inspect a consignment longer, the term may be extended for up to one month. The importer shall be immediately notified thereof in writing.

(2) A consignment the importation of which is suspended shall be sent to a facility designated by a supervisory official. It is not permitted to send consignments suspected of contamination to facilities where they may cause the contamination of other goods with harmful organisms. A supervisory official shall seal a consignment which is suspected of contamination and without his or her permission it is prohibited to use or deliver the consignment. The customs formalities of a consignment which is suspected of contamination may be terminated with the consent of the supervisory official.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(3) On the basis of the results of tests performed on a control sample, a supervisory official shall decide whether to permit the importation of a consignment which conforms to the requirements or to prohibit the importation of a contaminated consignment and further use thereof pursuant to § 26 of this Act.

(4) The costs of preserving goods the importation of which is suspended and the transport costs of such goods shall be borne by the importer.

§ 26. Identification of contamination upon importation

(1) If a contaminated consignment is identified, a supervisory official shall decide on whether to designate the consignment for purification, returning or destruction. Upon making a decision, the supervisory official may take into account the wishes of the importer.

(2) If a portion of a contaminated consignment is not contaminated and it can be separated, a supervisory official may grant the permission to import the portion which is not contaminated. The costs of separating a portion which is not contaminated shall be borne by the importer.

(3) A decision on designation of a consignment for disinfection or other similar purification shall be made if by purification of the consignment with the prescribed products, in the required manner and pursuant to the required procedure, it is possible to achieve compliance with the plant health requirements. The costs of purification of a consignment shall be borne by the importer.

(4) The customs authorities shall organise the returning of contaminated consignments and the confiscation of plants, plant products and other objects designated for destruction by applying the Customs Code.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

§ 27. Supervisory operations upon transit, inward processing and temporary importation

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(1) In the case of a consignment which is in transit through Estonia, the existence of a phytosanitary certificate and compliance of the consignment with the accompanying documents shall be checked. A supervisory official shall make a notation on the accompanying documents of goods concerning permission to transit the consignment. Checking is an inseparable part of the customs procedure.

(2) In the case of inward processing and temporary importation of a consignment, the existence of a phytosanitary certificate and compliance of the consignment with the accompanying documents shall be checked. If a consignment is subject to storage or repackaging in Estonia before re-exportation, or if at the time when the consignment is in Estonia more than fourteen days pass as of issue of a phytosanitary certificate, a supervisory official may perform also other supervisory operations specified in § 25 of this Act. A phytosanitary certificate issued in the course of checking shall accompany the consignment. Checking is an inseparable part of the customs procedure.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

Division 3

Special Cases of Plant Health Protection

§ 28. Application of control measures on state land and in state forest

(1) On state land which is not subjected to use, the Plant Production Inspectorate shall organise the application of control measures.

(2) In state forests which are not subjected to use, the Centre of Forest Protection and Silviculture shall organise the application of control measures.

§ 29. Application of control measures on municipal land

On municipal land which is not subjected to use, the local government shall organise the application of control measures.

§ 30. Application of control measures in event of person's failure to do so

If a person specified in subsection 9 (2) of this Act does not perform his or her obligations upon application of control measures and an extensive spreading of harmful organisms may cause significant financial loss, a supervisory agency shall organise the application of control measures instead of the person by way of substitutive enforcement pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580) out of the funds allocated therefor from the state budget.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 31. Compensation for costs of application of control measures

(1) In the case specified in § 30 of this Act, a supervisory agency shall submit to a person an invoice concerning the costs of control carried out out of the funds of the state budget which shall be paid within one month after receipt of the invoice.

(2) If a person guilty of spreading harmful organisms is known, a supervisory agency shall submit an invoice specified in subsection (1) of this section to him or her.

(3) If a person who receives an invoice does not compensate for the costs of application of control measures, the costs shall be claimed in court.

§ 32. Application of control measures in event of person's failure to do so during plant quarantine

During plant quarantine, a supervisory agency may organise application of control measures instead of a person by way of substitutive enforcement pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580) out of the funds allocated therefor from the state budget.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 33. Application and financing of control measures

The procedure for application of control measures and for financing of the application of control measures in the cases specified in §§ 28, 30 and 32 of this Act shall be established by a regulation of the Government of the Republic.

§ 34. Plant quarantine

(1) If the area where dangerous organisms spread is not exactly known and the determining of the area requires time or is impracticable, or if the spreading of harmful organisms may cause significant financial loss, the Government of the Republic shall declare plant quarantine.

(2) Plant quarantine shall be declared if it is impossible in any other manner to prevent the further extensive spreading of harmful organisms or organise the control of harmful organisms.

§ 35. Restrictions during plant quarantine

(1) If plant quarantine is declared, a quarantine area and the control measures and procedure for the application thereof against plants, plant products or other objects which are manufactured, primarily processed, stored, packaged, imported, exported and marketed shall be established by a regulation of the Government of the Republic.

(2) Control measures which are applied during plant quarantine shall be determined according to the species of harmful organisms.

(3) Plants, plant products and other objects may be exported from quarantine areas only with the permission of a supervisory official. Permission shall be granted if a lot of plants, plant products or other objects is not contaminated and there is no danger that harmful organisms may spread.

§ 36. Termination of plant quarantine

After the reasons for declaration of plant quarantine cease to exist, the Government of the Republic shall terminate the plant quarantine by its regulation.

§ 37. Partial compensation for control costs

(1) Costs incurred upon control of harmful organisms during plant quarantine shall be compensated to a person in the amount of up to 50 per cent after termination of plant quarantine. Control costs shall not be compensated to persons instead of whom a supervisory agency applies control measures or to persons who caused the spreading of harmful organisms.

(2) Calculation of the rate of compensation for control costs shall be based on the funds allocated therefor from the state budget and the total amount applied for, and the number of hectares where the person carries out the control of harmful organisms, the average price of plant protection products, the cost of plant protection products per one hectare and the average remuneration for control works.

(3) The procedure for the partial compensation for control costs shall be established by a regulation of the Government of the Republic.

Division 4

Plant passport and phytosanitary certificate

§ 38. Plant passport and phytosanitary certificate

(1) A plant passport is a document which certifies the phytosanitary conformity of plants, plant products or other objects and which is used within Estonia.

(2) A phytosanitary certificate is a document which certifies the phytosanitary conformity of plants, plant products or other objects and which is used upon importation and exportation.

§ 39. Issue of plant passports and phytosanitary certificates

(1) A plant passport shall be issued to a person entered in the plant health register. A supervisory official or a person entered in the plant health register who is granted the right to issue plant passports shall issue a plant passport.

(2) A supervisory official shall issue a phytosanitary certificate concerning a consignment.

(3) A supervisory official shall refuse to issue a plant passport or a phytosanitary certificate if a person fails to perform the obligations or comply with the plant health requirements prescribed in this Act and legislation established on the basis thereof.

§ 40. Validity of plant passports and phytosanitary certificates

(1) A plant passport and a phytosanitary certificate are valid for the certification of conformity of a consignment concerning which they are issued.

(2) A phytosanitary certificate shall not be issued earlier than fourteen days before the importation of a consignment.

(3) A plant passport shall be valid for the term specified by the issuer.

§ 41. Right to issue plant passports

(1) The Plant Production Inspectorate shall grant to a person entered in the plant health register, at his or her request, the right to issue plant passports if during a calendar year no violations of this Act or legislation established on the basis thereof are detected as a result of supervision of the activities of the person.

(2) An entry shall be made in the plant health register concerning the right to issue plant passports. A person who obtains the right to issue plant passports may issue plant passports only with regard to plants, plant products and other objects marketed by the person.

(3) If a person who obtains the right to issue plant passports violates the provisions of this Act and legislation established on the basis thereof, the Plant Production Inspectorate shall declare the granted right invalid.

§ 42. Use of plant passports and phytosanitary certificates

(1) A phytosanitary certificate and a plant passport shall accompany a consignment. A consignment shall be identifiable. A plant passport may also be attached to a plant or stuck on the labelling of a plant product or other object.

(2) A phytosanitary certificate or a plant passport which is amended or corrected is invalid. A copy of a phytosanitary certificate made by a supervisory official shall be confirmed by a seal of the supervisory agency and a notation "*Koopia*" [Copy].

(3) The list of plants, plant products and other objects which are inspected at the place of manufacture and with regard to which plant passports are issued, the formal and substantive requirements for plant passports and phytosanitary certificates and the procedure for the issue, replacement and preservation of the specified documents shall be established by a regulation of the Government of the Republic.

§ 43. Prohibition on issue of plant passports

(1) If the spreading of harmful organisms is detected, the issue of plant passports with regard to these plants, plant products and other objects which spread harmful organisms, and the use of the issued plant passports may be prohibited. A supervisory official shall make the corresponding decision and shall notify the person who has received a plant passport or has obtained the right to issue plant passports of the decision immediately by post or electronic means.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) If the reasons for prohibiting the issue and use of a plant passport cease to exist, a supervisory official shall make a decision on permitting the use of the plant passport and shall notify the person of the decision immediately by post or electronic means.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 44. Replacement of plant passports and phytosanitary certificates

(1) A supervisory official shall replace a plant passport or a phytosanitary certificate with a new one in the case of splitting or combination of consignments, and if the condition of consignments changes. The specified documents may be replaced if there is no danger that harmful organisms would spread.

(2) A plant passport or a phytosanitary certificate shall not be replaced if a plant, plant product or other object is contaminated or suspected of contamination.

§ 45. Preservation of plant passports and phytosanitary certificates

Plant passports and phytosanitary certificates certifying the conformity of plants, plant products or other objects shall be preserved for one year.

Division 5

Plant health register

§ 46. Plant health register

(1) The plant health register is a state register, the chief processor of which is the Ministry of Agriculture and the authorised processor of which is the Plant Production Inspectorate.

(2) The plant health register and the statutes for maintenance thereof shall be established by the Government of the Republic on the proposal of the Minister of Agriculture.

(3) Data in the plant health register is in interbase cross-usage with data stored in other databases the chief processor of which is the Ministry of Agriculture. The cross-usage of data with data stored in databases which are in the area of government of other ministries may be established by a regulation of the Government of the Republic.

§ 47. Entry of data in plant health register

(1) The Plant Production Inspectorate shall enter data in the plant health register on the basis of a person's application. Documents which set out the data entered in the register shall be appended to the application.

(2) If the data are already in the database specified in subsection 46 (3) of this Act, a person need not re-submit the data for entry in the plant health register, but may refer to the data. In such case, the Plant Production Inspectorate shall enter the data received from another database in the plant health register.

(3) The following shall be entered in the plant health register:

- 1) the identification of the botanical taxon of plants which are manufactured, primarily processed, imported, stored, packaged or marketed, that is the Latin and common names, and the name of plant products and other objects. The name of plants, plant products and other objects shall be associated with the name of the person who applies for the entry;
- 2) the name and seat of the manufacturer, primary processor, storer, packager, importer and distributor and, if necessary, of a representative of the person, the telecommunications numbers thereof, the commercial registry code, area of activity, the date when the application is submitted and the number of the register entry. In the case of an importer, also the country of origin of plants, plant products or other objects and the name and seat of their manufacturer shall be entered in the register;
- 3) the proposed quantity of plants, plant products or other objects which are manufactured, primarily processed, imported, stored, packaged or marketed per calendar year;

4) the description of the conditions of manufacture, primary processing, storage, packaging or marketing;

5) the time of exercise of supervision and the results of supervision.

(4) Data shall be entered in the plant health register for an unspecified term and, at the request of a person, the Plant Production Inspectorate shall issue a corresponding registration certificate.

§ 48. Scope of registration obligation

(1) Data on a person shall be entered in the plant health register if the person is engaged in the manufacture, primary processing, importation, storage, packaging or marketing of one of the following products:

1) pot plants;

2) cut flowers and cut herbs;

3) bulbs, corms and other variants of stems;

4) planting and propagating material of fruit trees, vegetables, berries and ornamental plants;

5) seed potatoes;

6) potatoes for consumption;

7) forage beets and sugar beets which are used as feedingstuffs or for processing;

8) citrus fruits;

9) raw wood and bark;

10) soil and substrata.

(2) Registration obligation also applies to persons who are engaged in the importation of plants, plant products or other objects which belong to the list specified in subsection 24 (2) of this Act.

(3) The following persons do not have the registration obligation:

1) persons who market plants, plant products, soil or substrata manufactured by the persons only to persons entered in the plant health register, distributors of the same region or to consumers of the internal market, or who use these themselves;

2) persons who export plants, plant products and other objects for personal use;

3) persons who market plants, plant products, soil or substrata received from persons entered in the register or from manufacturers of the same region to consumers of the internal market by way of retail trade;

4) persons who market raw wood originating from forests which belong to them to persons buying up raw wood or consumers located in Estonia.

§ 49. Duties of persons entered in plant health register

Persons entered in the plant health register are required to:

- 1) maintain land use plans concerning plots of land in their use;
- 2) maintain records of the manufactured, primarily processed, stored, packaged, imported, exported and marketed products, and preserve the accompanying documents and documents certifying the phytosanitary conformity thereof for at least one year;
- 3) maintain records of the bought, grown and marketed plants and plant products, and preserve the accompanying documents and documents certifying the phytosanitary conformity thereof for at least one year;
- 4) carry out observations prescribed pursuant to this Act;
- 5) enable a supervisory official to access the object under inspection;
- 6) co-operate with supervisory agencies upon assessment of plant health.

§ 50. Refusal to make register entry and restrictions stated in register

(1) The Plant Production Inspectorate shall refuse to make a register entry if:

- 1) the applicant for the entry has submitted false data;

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

- 2) the applicant's conditions of manufacture, primary processing, storage, packaging or marketing do not allow compliance with the plant health requirements;
- 3) the applicant's plants, plant products or other objects specified in clauses 48 (1) 1)-10) of this Act do not conform to the plant health requirements;
- 4) the applicant has not paid the state fee.

(2) A written decision to refuse registration shall be communicated to the applicant immediately by post or electronic means.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(3) If, in the cases specified in clauses (1) 1)-3) of this section, a supervisory official issues a precept concerning restriction of the activities of a person, including suspension, it shall be stated in the register.

§ 51. Amendment of register entries and invalidation of entries

(1) A register entry shall be amended or invalidated at the request of an applicant if the data concerning the entry changes or if the applicant terminates the manufacture, primary

processing, importation, storage, packaging or marketing of plants, plant products or other objects.

(2) A person entered in the plant health register is responsible for the correctness of the data submitted by him or her and if the data change, he or she shall immediately apply for amendments in the register.

(3) Upon discovery of inaccurate data, the Plant Production Inspectorate shall issue a precept to the person entered in the register. If the person does not apply for amendment or invalidation of a register entry within five working days after the receipt of the precept, or does not contest the precept, the Plant Production Inspectorate may amend or invalidate the register entry on the basis of the known data.

§ 52. Protection of registered data

Data entered in the register are public, except data which for a justified reason are classified as a business secret in a person's application. Access to such data is restricted, the data may be used by the supervisory officials of the Plant Production Inspectorate and the Centre of Forest Protection and Silviculture and other officials authorised therefor. A person may apply for the disclosure of data containing business secrets at any time.

Chapter 3

Plant Protection Products and Equipment

Division 1

Requirements Applicable to Plant Protection Products and Equipment

§ 53. Requirements applicable to plant protection products

(1) Plant protection products shall be suitable for use in Estonia. If used as required, the products shall not be hazardous to persons or the environment and they shall conform to the requirements provided for in this Act and other legislation.

(2) The properties of plant protection products shall enable the use thereof for the prescribed purposes and in the prescribed manner and they shall be effective on pests.

(3) Plant protection products shall not cause suffering to the vertebrate animals which are controlled, have harmful effect on the plants and animals which are not controlled, and to human health and the surrounding environment.

(4) It is permitted to import, market and use only the plant protection products entered in the register of plant protection products, except in the cases provided for in § 55 of this Act.

(5) The requirements provided for in this Chapter do not apply to products used to control home pests and to biocides, or in the case of transit and exportation of plant protection products.

§ 54. Active substances of plant protection products

(1) Active substances contained in plant protection products shall conform to the level of quality declared by the manufacturers. Plant protection products shall not contain prohibited active substances.

(2) It shall be possible to determine the properties and quantities of the active substances of plant protection products, the additives of the products, and the residues resulting from the use of the products with internationally recognised methods.

(3) The list of prohibited active substances in plant protection products shall be established by a regulation of the Government of the Republic.

§ 55. Unregistered plant protection products

(1) Unregistered plant protection products may be imported and used:

1) with the permission of the Plant Production Inspectorate in research and development institutions;

2) with the permission of the Plant Production Inspectorate and under the supervision of supervisory officials in order to control harmful organisms.

(2) The Plant Production Inspectorate issues permits to research and development institutions for the importation and use of unregistered plant protection products for the purposes of scientific research in field trials on plots of land of up to one hectare.

(3) The Plant Production Inspectorate shall issue a permit for the importation and use of unregistered plant protection products if it is impossible to control harmful organisms with registered plant protection products or if control is not effective. A permit shall be issued for up to 120 days.

(4) Permits for the importation and use of unregistered plant protection products shall not be issued if the products contain prohibited active substances.

§ 56. Classification of plant protection products

(1) Plant protection products shall be classified on the basis of their effect on warm-blooded organisms. Plant protection products are classified as very toxic, toxic and harmful.

(2) According to the methods of marketing, plant protection products can be marketed on the basis of plant protection certificates or freely.

(3) The procedure and methods for the classification of plant protection products shall be established by a regulation of the Government of the Republic.

§ 57. Packaging of plant protection products

(1) The packaging of plant protection products shall conform to the requirements of the Packaging Act (RT I 1995, 47, 739; 1997, 53, 836; 2002, 53, 336; 61, 375; 63, 387) and this Act.

(2) A packaging shall ensure the preservation of the properties of a plant protection product, the harmlessness of the product to human health and the environment, and shall be properly labelled.

§ 58. Labelling of packaging of plant protection products

(1) The labelling of a packaging of a plant protection product shall provide the purchaser of the plant protection product with sufficient information concerning the harmfulness of the plant protection product, other properties, the period of and requirements for storing and the manners of use of the product.

(2) The requirements for the packaging and labelling (label) of plant protection products shall be established by a regulation of the Government of the Republic.

§ 59. Plant protection certificate

(1) A plant protection certificate certifies that a person has undergone training in plant protection and may market, buy and use all plant protection products.

(2) The training programmes of plant protection and the requirements for the issue of plant protection certificates and the procedure for the issue of the certificates shall be established by a regulation of the Government of the Republic.

§ 60. Marketing of plant protection products

(1) The distributor of a plant protection product shall provide detailed information concerning the plant protection product to the purchaser at the request of the purchaser. It is prohibited to market plant protection products:

- 1) by way of self-provision and mail order sales;
- 2) to persons in an obvious state of intoxication;
- 3) to minors.

(2) The purchaser of a plant protection product which is marketed on the basis of a plant protection certificate shall hold a plant protection certificate. Upon marketing of such plant protection products, records shall be maintained of the marketed plant protection products. The procedure for maintaining records of plant protection products marketed on the basis of plant protection certificates shall be established by a regulation of the Government of the Republic.

(3) The requirements for the marketing of plant protection products apply also in the case of delivery of the products in any other manner for a charge or without charge.

§ 61. Storage and marketing facilities of plant protection products

(1) Premises where plant protection products are stored and marketed shall conform to health protection, environmental safety and fire safety requirements. The plant protection products to be marketed shall be stored and marketed separately from raw material for food, food, medicinal products and feedingstuffs in order to avoid the contamination of

raw material for food, food, medicinal products and feedingstuffs with plant protection products.

(2) There shall not be any open packages of plant protection products in the storage and marketing facilities of plant protection products. Plant protection products the packaging of which has broken shall be promptly removed from marketing and at the earliest opportunity returned to the supplier who is required to collect these and handle according to the requirements. If it is impossible to return the plant protection products to the supplier and use safe handling, the plant protection products shall be rendered harmless pursuant to the procedure provided for in the Chemicals Act (RT I 1998, 47, 697; 1999, 45, 512; 2002, 53, 336; 61, 375; 63, 387).

(3) The distributor of plant protection products shall notify the Plant Production Inspectorate of marketing premises before the marketing.

§ 62. Marketing of expired plant protection products

(1) Plant protection products which conform to the requirements and which have not been marketed before the expiry of the term during which registration is valid may be marketed after informing the Plant Production Inspectorate until stocks run out but not longer than by the end of the year following the expiry of the term during which registration is valid.

(2) The marketing of plant protection products which conform to the requirements and the durability period of which has expired may be continued within one year. A corresponding notation shall be made on the packaging of plant protection products.

(3) The conformity of plant protection products the durability period of which has expired shall be verified by laboratory analyses specified in subsection 90 (2) of this Act the results of which shall be accessible to the purchasers at the retail outlet.

§ 63. Use of plant protection products

(1) Plant protection products may be used only for the purposes, in the manner and at the application rate specified on the labelling, and observing the number of applications and waiting periods after using the products.

(2) The use of plant protection products which are marketed on the basis of plant protection certificates is prohibited in cities and other settlements, and elsewhere in the close proximity of residential buildings. As an exception, such plant protection products may be used in gardens and green areas for the control of moles and water rats if control by using other plant protection products is not effective and control is carried out by a person who holds a plant protection certificate.

(3) The control of harmful organisms from aircraft is prohibited.

(4) Users of plant protection products shall maintain records of the used plant protection products. Only persons who hold plant protection certificates may use plant protection products marketed on the basis of plant protection certificates.

(5) The rules for the safe use of plant protection products shall be established by a regulation of the Government of the Republic.

§ 64. Requirements applicable to plant protection equipment

(1) Plant protection equipment and manners of use thereof shall be harmless to human health and the environment and shall conform to the requirements provided for in this Act and other legislation.

(2) The manner of use of plant protection equipment shall not have a harmful effect on the plants and animals which are not controlled, and be hazardous to human health and the environment.

(3) Safety requirements for the use, storage and cleaning of plant protection equipment shall be established by a regulation of the Government of the Republic.

(4) The conformity of plant protection equipment shall be certified by a declaration of conformity of plant protection equipment or by a certificate of conformity issued on the basis of the testing.

§ 65. Declaration of conformity of plant protection equipment

(1) A manufacturer or importer shall submit a declaration of conformity of plant protection equipment. The declaration shall set out the name and address of the submitter thereof and the description of the type and area of application of the plant protection equipment.

(2) The user manual in Estonian and the description of the type of the equipment and other documents which characterise the equipment shall be appended to the declaration of conformity of plant protection equipment.

(3) If the type of equipment changes and this affects the use of plant protection products, the declaration of conformity of the plant protection equipment shall be renewed.

(4) A declaration of conformity of plant protection equipment need not be submitted with regard to spray guns and knapsack sprayers or if the equipment is used for research, in testing or as a sample.

§ 66. Manufacture, importation and marketing of plant protection equipment, and prohibition on manufacture, importation and marketing thereof

(1) Plant protection equipment the conformity of which is certified by a declaration of conformity or a certificate of conformity may be manufactured, imported and marketed.

(2) The manufacturer, importer and distributor of plant protection equipment is required to notify the Plant Production Inspectorate of its activities in writing.

(3) If a supervisory official discovers that plant protection equipment does not conform to the requirements, he or she may prohibit the manufacture, importation and marketing of

the equipment until the person submits a certificate of conformity which certifies the conformity of the plant protection equipment.

§ 67. Testing of plant protection equipment and certificate of conformity

(1) In the case specified in subsection 66 (3) of this Act, a supervisory official may send plant protection equipment to testing for the assessment and certification of conformity thereof.

(2) In order to send plant protection equipment to testing, the consent of the owner of plant protection equipment is required. The costs of testing shall be borne by the owner of the equipment which is tested.

(3) A certificate of conformity shall be issued concerning plant protection equipment which proves to conform to the requirements upon testing. Certificates of conformity issued in foreign states shall be recognised in Estonia.

§ 68. Inspection of plant protection equipment

(1) Plant protection equipment which is in use, except plant protection equipment with regard to which a declaration of conformity is not submitted pursuant to subsection 65 (4) of this Act, shall undergo inspection once every three years. In the course of inspection, the conformity of the technical conditions of plant protection equipment shall be verified.

(2) Plant protection equipment which has not undergone inspection is deemed not to conform to the requirements. It is prohibited to use plant protection equipment which in the course of inspection proves not to conform to the requirements.

(3) The procedure for the testing, inspection and technical control of plant protection equipment and the agencies which perform testing, inspection and technical control shall be determined by a regulation of the Minister of Agriculture.

Division 2

Register of plant protection products

§ 69. Register of plant protection products

(1) The register of plant protection products is a state register, the chief processor of which is the Ministry of Agriculture and the authorised processor of which is the Plant Production Inspectorate.

(2) The plant health register and the statutes for maintenance thereof shall be established by the Government of the Republic on the proposal of the Minister of Agriculture.

§ 70. Registration of plant protection products

(1) The manufacturer of plant protection products or a person authorised thereby (hereinafter applicant) is required to submit an application for the registration of an imported or marketed plant protection product. The sample of a plant protection product

and the standards for the analysis of active substances of the plant protection product shall be appended to the application.

(2) The Plant Production Inspectorate shall register a plant protection product which conforms to the requirements in the register of plant protection products within one month after receipt of the application and documents containing data to be registered. In order to ascertain the conformity of a plant protection product, testing of the plant protection product may be performed.

(3) The formal and substantive requirements for the registration applications and the appendices thereof, the procedure for entry in the register and the principles for the evaluation of the submitted data shall be established by a regulation of the Government of the Republic.

§ 71. Data entered in register

(1) The following information concerning a plant protection product and additives thereof, and plant corroborants and the manufacturers, importers and distributors thereof shall be entered in the register of plant protection products:

1) the name and type of the plant protection product, the type and size of packaging and the labelling thereof, the composition and chemical, physical, toxicological and ecotoxicological properties of the product, the type of preparation, time and manner of use, application rate, number of applications, waiting times after applications and the results of testing;

2) the name, seat, telecommunications numbers and the commercial registry code of the manufacturer, importer and distributor of plant protection products;

3) the list and quantities of plant protection products which are imported and marketed in Estonia.

(2) A manufacturer who applies for the registration of a plant protection product may name importers and distributors authorised thereby whose data are entered in the register on the basis of an application of the manufacturer. The Plant Production Inspectorate shall notify persons who are entered in the register on the basis of an application of a manufacturer thereof.

(3) An importer of registered plant protection products is required to submit an application for entry in the register and the following information concerning the importer, and the distributors authorised thereby: name, seat, telecommunications numbers and commercial registry code.

(4) The importers and distributors entered in the register shall submit the information specified in clause (1) 3) of this section for a year during the month of January of the following year.

§ 72. Use of register data upon registration of other plant protection products

(1) Upon application for entry of a plant protection product in the register, data entered in the register on research and testing conducted concerning active substances which are similar to the active substances contained in such plant protection product may be used. The applicant shall certify the identity of active substances.

(2) In order to use data specified in subsection (1) of this section, the consent of a person whose application was the basis for entry of the active substances in the register is required.

§ 73. Registration certificates of plant protection products and term of validity thereof

(1) At the request of an applicant, a registration certificate of a plant protection product shall be issued to the applicant.

(2) Plant protection products shall be registered for ten years. If the term expires, it may be extended at the request of the applicant. A new term shall be determined pursuant to the same procedure as the plant protection products are registered. An application for extension of a term shall be submitted at least two years before expiry of the term of validity of a registration. Upon extension of the term, data need not be submitted if register entries have not changed.

(3) If the applicant does not wish to extend a term, the Plant Production Inspectorate shall delete the plant protection product from the register after expiry of the term of validity of the registration.

§ 74. Refusal to register and deletion from register

(1) The Plant Production Inspectorate shall refuse to register a plant protection product if:

1) the applicant has submitted false data;

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

2) the plant protection products do not conform to the requirements;

3) a plant protection product which is of equivalent effectiveness and which is safer to human health and the environment is entered in the register;

4) the applicant has not paid the state fee.

(1¹) If an applicant fails to submit a sample of a plant protection product, the standards for the analysis of active substances, or other required documents, the Plant Production Inspectorate shall, at the earliest opportunity, grant a term for the applicant for elimination of the deficiencies.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) If, regardless of a precept, in the cases specified in clauses (1) 1)-2) of this section an applicant does not submit accurate data or has repeatedly failed to ascertain the conformity of a plant protection product, the Plant Production Inspectorate may make a decision on deletion of the plant protection product from the register.

(3) The person concerned shall be immediately notified of a decision to refuse to register the person or to delete the person from the register by post or electronic means.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 75. Amendment and invalidation of register entries

(1) A register entry shall be amended or invalidated at the request of the applicant.

(2) A person entered in the register of plant protection products is responsible for the correctness of data submitted by the person. If data change, the person shall immediately apply for amendments in the register.

(3) Upon discovery of inaccurate data, the Plant Production Inspectorate shall issue a precept to the person entered in the register. If the person does not apply for amendment or invalidation of a register entry within ten working days after the receipt of the precept, or does not contest the precept, the Plant Production Inspectorate may amend or invalidate the entry on the basis of the known data.

§ 76. Amendment of requirements

(1) Upon amendment of the requirements applicable to plant protection products, the Plant Production Inspectorate has the right to demand the submission of additional information concerning plant protection products or organisation of testing of plant protection products from persons entered in the register.

(2) The submission of additional information concerning registered plant protection products may be demanded if according to the amended requirements different information or more information than before is to be submitted in order to register plant protection products.

(3) The organisation of testing of registered plant protection products may be demanded if according to the amended requirements different circumstances or more circumstances than before are to be taken into account upon ascertainment of the conformity of plant protection products.

§ 77. Protection of registered data

(1) Data entered in the register are public, except data which for a justified reason are classified as a business secret in a person's application. A person may apply for the disclosure of data containing business secrets at any time.

(2) The following information is not a business secret:

1) the names of plant protection products and the names of the active substances of the products and content in the plant protection products and the names of the hazardous substances contained in the plant protection products on the basis of the classification;

2) the description of the physical and chemical properties of the active substance of plant protection products;

- 3) the methods for the safe use of plant protection products;
- 4) the effectiveness of plant protection products and active substances thereof and the summary of the results of testing performed for the ascertainment of safety;
- 5) the safety measures applied upon packaging, storage, transportation and marketing of plant protection products;
- 6) the analytical methods;
- 7) the methods for the elimination of pollution caused by plant protection products;
- 8) the methods of first aid and treatment provided in the case of intoxication.

(3) Access to the data which are classified as a business secret is restricted, the data may be used by the plant protection, health protection and environmental supervision officials and other officials authorised therefor.

(4) The Plant Production Inspectorate shall prepare and publish a review of plant protection products entered in the register and the conditions for the use thereof once a year and shall concord the part concerning plant protection products used in forestry with the Centre of Forest Protection and Silviculture.

(5) The Plant Production Inspectorate shall notify the Health Protection Inspectorate of registration of new plant protection products and their active substances and shall provide information concerning the content and standards for the analysis of active substances and other public register data.

Division 3

Testing of plant protection products

§ 78. Testing of plant protection products

The testing of a plant protection product shall be performed in order to ascertain the conformity of the plant protection product before registration of the product. The Plant Production Inspectorate shall take the results of testing into account upon deciding on registration of a plant protection product.

§ 79. Refusal to perform testing of plant protection products

The testing of a plant protection product shall not be performed:

1) if information concerning a similar plant protection product is entered in the register, or if the conformity of a plant protection product is known due to other circumstances, or if the testing of a plant protection product has been performed earlier in Estonia or in a country where the conditions are similar to the agricultural, plant health and environmental conditions of Estonia;

2) by using experimental animals if such testing has been performed earlier and the results are known.

§ 80. Performer of testing of plant protection products

(1) The testing of plant protection products shall be performed by an authorised research and development institution.

(2) A research and development institution authorised for testing specified in subsection (1) of this section shall be designated by a regulation of the Minister of Agriculture.

§ 81. Term for testing of plant protection products

(1) The testing of a plant protection product shall be performed within a term which is usually prescribed for the ascertainment of conformity of a similar plant protection product.

(2) If, in the cases specified in clause 79 1) of this Act, the results of tests which were performed earlier can be partly used upon assessment of conformity of a plant protection product, the term for testing the plant protection product shall be reduced by the period of time which was prescribed for the receipt of these results in performing the tests.

(3) If a testing fails, the term for testing may be extended by a period of time which is necessary to repeat the testing.

§ 82. Documents and costs related to testing of plant protection products

(1) The testing of plant protection products shall be documented and a consolidated report which includes the description of the tests and the established facts and conclusions shall be submitted to the Plant Production Inspectorate and the applicant.

(2) An applicant shall pay the costs of testing of plant protection products to the research and development institution.

Chapter 4

Supervision

§ 83. Supervisory agencies

(1) The Plant Production Inspectorate shall exercise supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof.

(2) The Centre of Forest Protection and Silviculture shall be involved in exercising supervision over compliance with the requirements applicable to forest cultivating material, including forest seed and nursery stock and raw wood within Estonia and upon exportation.

(3) The Plant Production Inspectorate shall exercise supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof upon importation of forest cultivating material and raw wood.

§ 84. Supervisory officials

(1) Supervisory officials of the Plant Production Inspectorate and the Centre of Forest Protection and Silviculture shall, within the limits of their competence, exercise supervision over the activities of persons who are required to comply with the requirements established for plant health, plant protection products and equipment.

(2) Upon performance of their duties, supervisory officials shall co-operate with other agencies of executive power. Officials of the Police Board, Customs Board and Rescue Board shall, within the limits of their competence, assist supervisory officials upon performance of their duties.

§ 85. Rights and duties of supervisory officials

(1) A supervisory official who presents an identification has the right to verify without hindrance whether a person complies with the requirements applicable to the person's territory and premises, means of transport, machinery and other inventory, raw material and finished products and other similar objects and circumstances and other requirements established for plant health, plant protection products and equipment.

(2) Supervisory officials have the right to demand extracts and copies of relevant documents and other written and oral information necessary for supervision from a person, and have the right to carry out observations and record the results thereof using the technical means prescribed therefor by the supervisory agency after informing the person or the person's representative thereof.

(3) Supervisory officials are required to maintain business secrets which they become aware of during supervision. Information may be disclosed if the maintenance thereof endangers human health or the environment.

(4) Supervisory officials shall justify decisions made on the basis of this Act, prepare the decisions in writing and forward immediately to persons in respect of whom the decisions are made.

§ 86. Uniform of supervisory officials of Plant Production Inspectorate

During performance of supervisory operations, supervisory officials of the Plant Production Inspectorate and plant protection inspectors shall wear uniforms. The description of the uniform shall be established by a regulation of the Minister of Agriculture.

§ 87. Plant protection inspector

(1) Plant protection inspectors are non-staff public servants who are granted the right to carry out observations, record the results thereof and take control samples.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) Plant protection inspectors have the rights and duties of supervisory officials within the limits of competence specified in subsection (1) of this section.

§ 88. Grant of rights of plant protection inspector

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(1) The rights specified in subsection 87 (1) of this Act shall be granted to a plant protection inspector who is employed in service by a directive of the director general of the Plant Production Inspectorate taking into account the qualification of the inspector. Upon granting the rights, the territory, place or places of work of the plant protection inspector shall be determined.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) The rights of a plant protection inspector terminate upon termination of the service relationship of the plant protection inspector.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 89. Other duties of plant protection inspectors

(1) A plant protection inspector is required to:

- 1) participate in in-service training organised by the Plant Production Inspectorate;
- 2) perform the duties for which the rights of the plant protection inspector are granted;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

3) maintain business secrets which he or she becomes aware of;

4) prepare and submit a report on his or her activities to the Plant Production Inspectorate.

(2) A plant protection inspector shall not exercise supervision over the activities of a person with whom he or she has common economic or other interests.

(3) A plant protection inspector shall not submit an invoice to a person for supervisory operations and receive remuneration from the person.

§ 90. Control samples and analysis thereof

(1) Upon performance of supervisory operations, a supervisory official has the right to take control samples in the necessary quantity for laboratory analysis at the expense of the person in the case of justified doubt that the requirements provided for in this Act and legislation established on the basis thereof are not complied with.

(2) Analyses shall be carried out in laboratories which are accredited according to the international requirements.

(3) The quantities of control samples taken from plants, plant products, other objects and plant protection products and the procedure for the taking thereof shall be established by a regulation of the Government of the Republic.

§ 91. Precept of supervisory official

(1) Upon detection of an offence, a supervisory official shall issue a precept in which he or she shall:

1) call attention to the offence;

2) require termination of the offence;

3) require the performance of operations necessary for the termination of the offence and the prevention of future offences.

(2) In a precept, a supervisory official shall designate a term for compliance therewith. A supervisory official shall notify a person or a representative thereof of a precept against a signature.

§ 92. Contestation of precept or decision

(1) If a person does not agree with a precept of a supervisory official or a decision made on the basis of this Act, the person may contest it by filing a written complaint to the director general of the supervisory agency.

(2) A precept or decision may be contested within ten working days as of the date of notification thereof. Contestation does not release a person from compliance with the precept or decision.

§ 93. Settlement of complaints

(1) The director general of the supervisory agency shall review a complaint within ten working days as of receipt thereof. In order to thoroughly examine the circumstances of a complaint, the term for review of the complaint may be extended to thirty working days. The person who submits the complaint shall be immediately notified thereof in writing.

(2) After review of a complaint, the director general of the supervisory agency shall make a decision to uphold a precept or decision, or amend or repeal this. The person shall be notified of the decision in writing. Regardless of the decision, the person may have recourse to a court in order to resolve a dispute.

Chapter 5

Liability

§ 93¹. Failure to perform obligation to register with plant health register

(1) Failure to perform the obligation to enter information concerning a plant, plant product or another object in the plant health register is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93². Violation of requirements for packaging of plant protection products or for marketing and use of plant protection products

(1) Violation of the requirements applicable to the packaging of plant protection products and the labelling thereof or the requirements for the marketing and use of plant protection products is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93³. Violation of plant health requirements

(1) Violation of the plant health requirements upon primary processing, manufacture, storage, packaging or importation of plants, plant products or other objects, or the requirements for the use, replacement or preservation of plant passports or plant health certificates is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93⁴. Violation of safety requirements for plant protection equipment

(1) Violation of the safety requirements for plant protection equipment, or the requirements for the manufacture, importation, marketing or inspection of such equipment is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93⁵. Spreading of harmful organisms or failure to apply control measures against pests

(1) Spreading of harmful organisms, or failure to apply control measures against harmful organisms during plant quarantine is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93⁶. Application of confiscation

The Plant Production Inspectorate or a court may, pursuant to § 83 of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284; 56, 350), apply confiscation of a plant protection product which was the direct object of commission of a misdemeanour provided for in § 93² of this Act.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 93⁷. Proceedings

(1) The provisions of the General Part of the Penal Code and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 93¹–93⁵ of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 93¹–93⁵ of this Act shall be conducted by the Plant Production Inspectorate.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 94. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 95. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 96. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 97. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 98. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Chapter 6

Implementing Provisions

§ 99. Notification

(1) If there is a spreading of harmful organisms, the Plant Production Inspectorate shall notify the supervisory agencies of other countries thereof pursuant to the procedure provided for in international agreements.

(2) If a contaminated consignment is detected and importation is suspended, the Plant Production Inspectorate shall notify the supervisory agency of the country of origin of the consignment thereof.

(3) The Plant Production Inspectorate shall publish an overview of the spreading of harmful organisms in Estonia prepared on the basis of supervision results entered in the plant health register in the official publication *Ametlikud Teadaanded*² at least once a year

§ 100. Transition period for entry in plant health register

A person subject to entry in the plant health register is required to submit a registration application and data to be entered in the register within two years as of entry into force of this Act or terminate the manufacture, primary processing, importation, storage, packaging or marketing of the products specified in § 48 of this Act.

§ 101. Financing of ordering of analyses from laboratories of foreign states

(1) Until entry into force of subsection 90 (2) of this Act with regard to laboratories located in Estonia, analyses may be carried out in other laboratories, or analyses may be ordered from laboratories which are located in foreign states and are accredited according to the international requirements. In the future, analyses which cannot be carried out in Estonia as required shall be ordered from foreign states.

(2) In order to order analyses from laboratories which are located in foreign states and are accredited according to the international requirements, funds designated therefor in the state budget shall be used.

§ 102. Continuation of processing of registration applications for plant protection products and of testing of plant protection products

The processing of registration applications for plant protection products and testing of plant protection products commenced before entry into force of this Act shall be completed pursuant to this Act.

§ 103. Calculation of time for inspection of plant protection equipment in use

In the case of plant protection equipment which is in use upon entry into force of this Act, the time for inspection pursuant to § 68 shall be calculated after the last testing which was conducted pursuant to the Plant Protection Act (RT I 1994, 28, 427; 1996, 49, 953; 1998, 13, 163; 97, 1519; 1999, 95, 843) which is repealed.

§ 104. Plant protection products entered in register of plant protection products

Plant protection products entered in the register of plant protection products pursuant to the Plant Protection Act which is repealed shall be transferred to the register of plant protection products established pursuant to this Act for the remaining term of registration without further application.

§ 105. Amendment of Technical Regulations and Standards Act

The Technical Norms and Standards Act (RT I 1999, 29, 398; 2000, 29, 169; 78, 495; 2002, 32, 186) is amended as follows:

(1) subsection 1 (2) is amended and worded as follows:

"(2) This Act does not apply to standards concerning national defence. Section 8 of this Act applies to legislation concerning sanitary and phytosanitary measures."

(2) Section 8:

1) subsections (1)-(3) are amended and worded as follows:

"(1) Draft legislation and international agreements which include technical regulations provided for in subsection 4 (1) of this Act, and draft legislation and international agreements concerning sanitary and phytosanitary measures are subject to notification.

(2) Drafters of legislation or international agreements which include technical regulations or sanitary and phytosanitary measures are required to submit such legislation or international agreements to the authority which co-ordinates notification.

(3) The Government of the Republic shall establish the procedure for notification of draft legislation and international agreements which include technical regulations and shall appoint the authority which co-ordinates the exchange of information.”;

2) subsection (3¹) is added worded as follows:

“(3¹) The Government of the Republic shall establish the procedure for notification of draft legislation and international agreements which include sanitary and phytosanitary measures and shall appoint the authority which co-ordinates the exchange of information.”

§ 106. Amendment of Code of Administrative Offences

The Code of Administrative Offences (RT 1992, 29, 396; RT I 2001, 74, 453; 87, 524 and 526) is amended as follows:

1) section 76 is amended and worded as follows:

“§ 76. Violation of requirements of Plant Protection Act

(1) A fine of up to one hundred days’ wages shall be imposed for failure to perform the obligation to make an entry in the plant health register or for submission of false information to the register, for obstruction of the activity of a supervisory official and for failure to comply with a precept or decision.

(2) A fine of up to one hundred and fifty days’ wages shall be imposed for violation of the requirements applicable to the packaging of plant protection products and the labelling thereof and the requirements for the marketing and use of plant protection products.

(3) A fine of up to one hundred and fifty days wages’ shall be imposed for violation of the plant health requirements upon manufacture, primary processing, storage, packaging, importation and marketing and the requirements for the use, replacement and preservation of plant passports.

(4) A fine of up to two hundred days’ wages shall be imposed for the violation of the safety requirements for plant protection equipment and the requirements for the manufacture, importation, marketing and inspection thereof.

(5) A fine of up to two hundred days’ wages shall be imposed for the spreading of harmful organisms, and for failure to apply control measures against harmful organisms during plant quarantine.”;

2) subsection 216 (2) is amended and worded as follows:

"(2) The director general of the Plant Production Inspectorate, deputies authorised by him or her, and inspectors have the right to impose administrative penalties.”;

3) section 216¹ is repealed.

§ 107. Amendments to State Fees Act

Sections 190³ and 190⁴ are added to the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377) worded as follows:

"§ 190³. Operations performed by plant health register

(1) A state fee of 1500 kroons shall be paid for the making of an entry in the plant health register.

(2) A state fee of 100 kroons shall be paid for amendment of a register entry in the plant health register.

(3) A state fee of 25 kroons per A4-format page shall be paid for a transcript of a register entry.

§ 190⁴. Issue of plant passports and plant health certificates, acquisition of right to issue plant passports and inspection of cereals

(1) A state fee of 5 kroons for every ten plant passports shall be paid upon the issue of plant passports.

(2) A state fee of 200 kroons shall be paid for the issue of a plant health certificate.

(3) A state fee of 1000 kroons shall be paid for the right to issue plant passports.

(4) A state fee of 1 kroon 50 cents per ton shall be paid at a border checkpoint for the inspection of cereals which are imported subject to re-exportation or by way of transit.”

§ 108. Amendment of Seed and Plant Propagating Material Act

The Seed and Plant Propagating Material Act (RT I 1998, 52/53, 771; 1999, 95, 843; 2000, 29, 169; 2002, 61, 375; 63, 387) is amended as follows:

(1) A third sentence is added to subsection 12 (1) worded as follows:

“Activity licences for the production and packaging of propagating material of arable crops, horticultural plants and forest plantation shall be issued to persons entered in the plant health register.”

(2) Section 18:

1) in the first sentence of subsection (1), the words “or plant passport” are added after the words “official label”;

2) in the first sentence of subsection (3), the words “which shall separately set out information required in plant passports” are added after the words “label or product information”.

(3) A third sentence is added to subsection 19 (1) worded as follows:

“It is prohibited to import seeds or plant propagating material which are processed with plant protection products which contain prohibited active substances.”

§ 109. Repeal of Plant Protection Act

(1) The Plant Protection Act (RT I 1994, 28, 427; 1996, 49, 953; 1998, 13, 163; 97, 1519; 1999, 95, 843) is repealed.

(2) Regulations of the Government of the Republic and of the Minister of Agriculture established pursuant to the Act specified in subsection (1) of this section shall remain in force, in so far as they are not contrary to this Act, until amendment or repeal thereof but for no longer than 1 September 2000.

§ 110. Entry into force of Act

§§ 28-37 of this Act enter into force on 1 January 2001 and subsection 90 (2) enters into force on 1 January 2002.

¹ RT = *Riigi Teataja* = *State Gazette*

² *Ametlikud Teadaanded* = *Official Notices*