

Note: Additions to the existing law are shown by underline .

**LAW OF THE KYRGYZ REPUBLIC
On Plants Quarantine**

Adopted by the Legislative Assembly
of Jogorku Kenesh of the Kyrgyz Republic

June 7, 1996

With proposed amendments of March 10, 1998

This Law shall determine general legal bases of plants quarantine, the activity of state bodies, enterprises, institutions, organizations, officials and citizens that is aimed at prevention of quarantine pests, plants diseases and weeds on the territory of the Kyrgyz Republic.

Article 1. Plants Quarantine Legislation

Legislation on plants quarantine shall be based on the Constitution of the Kyrgyz Republic and consist of this Law, other legislative and normative (legal) acts adopted in compliance with Law.

Article 2. Definitions of Terms

Terms given below shall be used in this Law in the following meaning:

Plant quarantine shall be a legal regime providing the system of state activities directed at protection of the plant wealth of the Republic from delivery and intrusion of quarantine weeds, pathogens of plants diseases and weeds from other states, as well as from a quarantine zone of the Republic.

Phytosanitary measure- any normative acts (including quarantine measures) designed to prevent the introduction and/or spread of pests, weeds and diseases.

Form of phytosanitary measures include:

- (i) a testing, inspection, certification, or approval procedure;
- (ii) a relevant statistical method;
- (iii) a sampling procedure;
- (iv) a method of risk assessment;
- (v) a quarantine treatment, such as a relevant requirement associated with the transportation of animals or plants or with material necessary for their survival during transportation.

Special quarantine regime shall be a special legal regime of activity of state bodies and bodies of local self-administration, enterprises, institutions, organizations and farms, irrespective of their property forms, that is directed at localization and liquidation of centers of quarantine objects and allows a temporary establishment of restrictions, provided by this Law, on exercising rights of citizens and legal entities, and imposes upon them additional duties;

Quarantine object shall be a kind of pests, pathogen of a plant disease or a kind of weeds that does not exist or narrowly spreads on the territory of the Kyrgyz Republic, but can cause considerable harm to plants or vegetable products;

Materials (goods) under quarantine shall be any materials (goods) which can promote spreading or due to which quarantine objects can spread;

Quarantine zone shall be a territory on which a specific quarantine regime is established in order to reveal a quarantine object;

State control of plants quarantine shall be control by the State Service on Plants Quarantine of enterprises, institutions, organizations, farms, irrespective of their property forms, as well as control of natural persons concerning whether they implement quarantine conditions in the production, procurement, transportation, storage, processing, realization and use of materials under quarantine, and control of activities on revealing, localizing and liquidating centers of quarantine objects;

Phytosanitary (quarantine) certificate shall be a document that certifies a quarantine condition of vegetable origin products and determines routes, conditions for transportation and use of the products and packing;

Import quarantine permission shall be a document that permits import to the Republic and transit of goods under quarantine on terms and conditions to be determined by the State Service on Plants Quarantine.

Risk assessment-means an evaluation of: the potential for the introduction, establishment or spread of a pest or disease and associated biological and economic consequences.

Pest or disease free area- an area whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur.

Area of low pest or disease prevalence- an area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

Article 3 - Development of Phytosanitary Measures

Phytosanitary measures shall be based on scientific principles and shall be applied only to the extent necessary to protect plant life or health.

Phytosanitary measures shall be based on international standards, guidelines or recommendations, if they exist.

Phytosanitary measures may be introduced which would result in a higher level of phytosanitary protection provided for in international standards, guides or recommendations if there is scientific justification. These measures must be based on an assessment of risks and shall take into account the following factors:

- (i) available scientific evidence,
- (ii) relevant processes and production methods,
- (iii) relevant inspection, sampling and testing methods,
- (iv) prevalence of specific diseases or pests,
- (v) existence of pest- or disease-free areas,
- (vi) relevant ecological and environmental conditions,
- (vii) quarantine or other treatment, and
- (viii) relevant economic factors, such as
 - (a) the potential damage in terms of loss of production or sales in the event of the entry,
 - (b) establishment of spread of a pest or disease,
 - (c) the costs of control or eradication in the Kyrgyz Republic
 - (d) relative cost-effectiveness of alternative approaches to limiting risks

If relevant scientific evidence is insufficient, a phytosanitary measure may be adopted on the basis of available information until additional information can be obtained to allow for a more objective assessment of the risk. The information shall be sought and the measure will be reviewed within a reasonable period of time.

Article 4 -NOTIFICATION AND PUBLICATION

When developing normative documents on phytosanitary measures, if not substantially the same as international standards, guides or recommendations, or if international standards, guides or recommendations do not exist and the normative document will have a significant effect on trade, a notification shall be published at an early stage in such a manner as to enable interested parties to make written comments. Except in urgent circumstances, the comment period will be no less than 60 days. Written comments submitted during the comment period shall be taken into account in the development of the normative documents.

All normative documents shall be promptly published upon adoption, and shall not have legal effect until published.

Except in urgent circumstances, there shall be a reasonable interval between the publication of a phytosanitary regulation and its entry into force in order to allow time for producers in other countries to adapt their products and methods of production to the requirements.

An inquiry point for information concerning phytosanitary measures shall be implemented by Kyrgyzstandard. The information shall include adopted or proposed phytosanitary regulations, control and inspection procedures, quarantine treatment, risk assessment procedures, factors taken into consideration as well as the determination of the appropriate level of phytosanitary protection, membership and participation of the government in international and regional phytosanitary organizations and systems and in bilateral and multilateral agreements.

Article 5. Import and Export Procedure for Goods Under Quarantine

Import to the Kyrgyz Republic of goods under quarantine and their transit transportation on the territory of the Kyrgyz Republic shall be carried out if a phytosanitary certificate to be issued by state bodies on plants quarantine of an exporter country and an import quarantine permission exist.

Export of goods under quarantine outside the Republic and from the quarantine zone shall be carried out if there is a phytosanitary (quarantine) certificate.

Customs documents for goods under quarantine shall be issued only after phytosanitary control.

All the materials and objects under quarantine that cross the state border of the Kyrgyz Republic and borders of specific quarantine zones shall be subject to phytosanitary (quarantine) control.

Samples of phytosanitary (quarantine) certificates and import quarantine permissions, as well as the procedure of issuing them shall be determined by the State Service on Plants Quarantine.

Phytosanitary measures shall not be applied with a view to or with the effect of restricting trade. And shall not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail.

Sanitary and phytosanitary measures of other countries shall be accepted, even if they differ from the measures used in the Kyrgyz Republic, provided that it is demonstrated that the measures of the other country achieve the appropriate level of sanitary or phytosanitary protection.

Article 6. Objects of Phytosanitary (Quarantine) Control

Phytosanitary (quarantine) control shall be extended to:

- seeds and planting materials of agricultural, forest and ornamental crops, plants and their components (grafts, bulbs, tubers and fruit), any other products of vegetable origin that can be a carrier of quarantine objects;
- crops of alive fungi, bacteria, viruses, nematods (a kind of worms), ticks and insects;
- collections of insects, pathogens of plant diseases and samples of injury they cause, as well as to herbariums and seeds collections;
- agricultural machinery and facilities for soil processing, transport vehicles, all kinds of packing, packaging materials, manufactured goods and articles of vegetable materials that may be carriers of quarantine objects, monoliths and soil samples;
- territories and premises of enterprises, institutions-organizations that procure, store, process and sell vegetable origin products, agricultural lands and forests, plots adjoining the farm and cottage-related plots, non-agricultural lands (zones of roads alienation, transmission lines and other).

Article 7. Duties of Officials and Citizens on Fulfillment of Quarantine Requirements

Officials and citizens the activity whereof is connected with production, procurement, processing, storage, transportation and realization (sale) of materials under quarantine shall be obliged to:

- fulfill phytosanitary (quarantine) rules;
- assist, within their competence, the State Service on Plants Quarantine, implement their instructions on carrying out relevant quarantine activities;
- provide, at the request of specialists of the State Service on Plants Quarantine, information concerning the availability of materials and objects under quarantine;
- provide a systematic investigation of crops, territories, warehouses where materials under quarantine are stored, and present available materials under quarantine for inspection and expert examination;
- immediately notify the State Service on Plants Quarantine in the event of revealing quarantine objects.

Article 8. Procedure of Introducing and Canceling a Special Quarantine Regime

In the event of revealing a quarantine object, bodies of the State Service on Plants Quarantine shall submit within 24 hours to a corresponding body of local self-administration or to the Cabinet of Ministers of the Kyrgyz Republic a request concerning the introduction of a special quarantine regime on the infected territory.

The territory of a special quarantine regime shall be established within a settlement and a district - by a corresponding district body of local self-administration, and within several districts and a region - by a regional body of local self-administration, and within several regions and republics - by the Cabinet of Ministers of the Kyrgyz Republic.

The body that took a decision on introducing or canceling the special quarantine regime shall immediately notify about that enterprises, institutions, organizations, farms located according to the corresponding territory and citizens living on that territory.

The decision on introducing the special quarantine regime shall surely include:

- circumstances that cause introducing the special quarantine regime;
- borders of the territory whereon the special quarantine regime is introduced;
- time since which the special quarantine regime has been introduced;
- a schedule of quarantine restrictions, activities on localization and liquidation of quarantine objects.

The application of phytosanitary measures shall be adapted to the characteristics of the area-whether all of a country, part of a country, or all or parts of several countries- from which the product originated and the area to which the product is destined. In applying phytosanitary measures consideration shall be given to relevant factors such as the level of prevalence of specific diseases or pests, the existence of eradication or control programs, pest- or disease-free areas or areas of low pest or disease prevalence.

After the liquidation of a quarantine object, bodies of the State Service on Plants Quarantine shall submit, in proper time, their request to a corresponding body concerning the cancellation of the special quarantine regime.

Article 9. Activities on the Territory with a Special Quarantine Regime

The following activities can be carried out on the territory with a special quarantine regime:

- restriction for exit of transport vehicles and their examination;
- prohibition of export of corresponding goods under quarantine;
- disinfection of materials and objects under quarantine;
- technical processing or destruction of materials under quarantine.

Article 10- Control, Inspection and Approval Procedures

Control, inspection and approval procedures shall be carried out so that imported products are treated no less favorably than are like domestic or imported products, including, but not limited to, no less favorable treatment with respect to:

- (a) the administration of the procedure
- (b) the confidentiality of information provided or acquired during the procedure
- (c) fees charged for tests
- (d) the siting of facilities and the selection of samples

The normal processing period of each procedure shall be published or the anticipated processing period shall be communicated to the applicant upon request.

Information requirements shall be limited to what is necessary for appropriate control, inspection and approval procedures.

Any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary.

When the specifications of a product are changed as a result of control or inspection procedures, the control or inspection procedure performed on the modified product is limited to what is necessary to determine whether adequate confidence exists that the product meets the regulations concerned.

Any fees charged shall be limited to cover the cost of the services rendered.

Article 11. Bodies that Carry Out State Regulation in the Sphere of Plants Quarantine

The Cabinet of Ministers of the Kyrgyz Republic, the State Service on Plants Quarantine, other state bodies, as well as bodies of local self-administration shall carry out state regulation in the area of plants quarantine according to procedure established by legislation.

The schedule of quarantine objects and the Charter of the State Service on Plants Quarantine shall be approved by the Cabinet of Ministers of the Kyrgyz Republic.

The organizational structure and the number of the staff of the State Service on Plants Quarantine shall be determined and approved by the Ministry of Agriculture and Food of the Kyrgyz Republic.

Article 12. Authorities of Local Bodies of Self-Administration in the Sphere of Plants Quarantine

Regional, city and district bodies of local self-administration shall organize and carry out control of implementing quarantine activities in cooperation with owners or authorized bodies of railroad stations, airports, post communication companies, markets, bus stations, officials of Customs and pass points on the state border, create conditions for local bodies of the State Service on Plants Quarantine in order to fulfill official duties.

At request of corresponding local bodies of the State Service on Plants Quarantine those bodies may introduce a special quarantine regime and cancel it according to procedure established by this Law.

Article 13. Basic Functions of the State Service on Plants Quarantine

Basic functions of the State Service on Plants Quarantine shall be:

- protection of the republic territory from bringing or independent penetration of quarantine objects from abroad or zones under quarantine;
- timely revelation, coordination of localization and liquidation of quarantine objects, as well as prevention of their penetration to the republic regions where they do not exist;
- implementation of state supervision of plants quarantine, as well as when concluding agreements (contracts) on import of vegetable origin products from abroad;
- issue of phytosanitary (quarantine) certificates and import quarantine permissions;
- organization and implementation of systematic control inspections of agricultural lands and forests, places for storage and processing of seeds, places for storage and processing of plants and vegetable origin products, import points of materials and objects under quarantine, territories adjacent to them;
- making an expert examination of materials (goods) under quarantine and objects;
- control of activity of introductory and quarantine nurseries, variety areas, green houses and hothouses that carry out control of seeds, plants and planting materials imported from abroad;
- organization of improvement and disinfection of goods and objects under quarantine, transport vehicles, packing that come from abroad;
- study of a specific composition, biology and ecology of quarantine pests, plants diseases and weeds that do not exist on the territory of the Republic, development of forecasting of their spreading with a view to prevent import;
- keeping records and issue of information on spreading of quarantine objects;

- issue of relevant normative documents (instructions, regulations, rules and so on) on plants quarantine;
- determination, in cooperation with interested institutions and agencies, of directions of scientific research, programs for training of specialists on plants quarantine and improvement of their qualification; propaganda of knowledge on plants quarantine;
- representation of interests of the Kyrgyz Republic in the sphere of plants quarantine in international organizations and in the cooperation with quarantine services of foreign countries;
- provision of fulfillment of obligations of the Kyrgyz Republic provided by international agreements and other governmental acts in the sphere of plants quarantine.

The State Service on Plants Quarantine shall carry out its activity in close cooperation with law-enforcement agencies and Customs Service, other state bodies and bodies of local self-administration of the Republic.

Article 14. Rights of the State Service on Plants Quarantine

When carrying out quarantine control, bodies of the State Service on Plants Quarantine shall have the right to:

- arrest goods and objects under quarantine for the period of a phytosanitary expert examination, when transporting them without the phytosanitary (quarantine) certificate, or they are imported from abroad without the quarantine permission;
- visit the corresponding objects in a zone of service, get information necessary to carry out their authorities;
- select samples of seeds, plants, vegetable origin products and other materials for laboratory expert examination;
- draw up protocols (acts) on officials and natural persons guilty of violating quarantine requirements, with their following submission to administrative commissions to impose penalties according to procedure established by legislation.

Decision of bodies of the State Service on Plants Quarantine, taken within their authorities, on prohibition of growing, exporting, importing, storing or using materials under quarantine, shall be obligatory for the state bodies, enterprises, institutions, organizations and farms, irrespective of their property forms, officials and citizens to implement.

Article 15- Applicants right to Appeal

An applicant to a control, inspection or approval procedure shall have the right to file a complaint concerning the operation of control, inspection or approval procedures with the State Service on Plants Quarantine. When a complaint is justified corrective action must be taken. Upon final completion of administrative appeal, the applicant has a further right to appeal to the judicial system.

Article 16. Financing of the State Service on Plants Quarantine

The State Service on Plants Quarantine shall be financed at the expense of the state budget and resources from enterprises, institutions, organizations and farms, irrespective of their property forms, and from citizens for inspection of materials and objects under quarantine according to the schedule of pricing on basic works on plants quarantine and other paid services according to agreements, as well as at the expense of penalties.

Article 17. Financing of Special Activities on Phytosanitary Quarantine

All activities on localization and liquidation of centers of quarantine objects shall be carried out at the expense of land-users' resources, and disinfection of vegetable origin products, packing and transport vehicles - at the expense of their owners' resources.

Article 18. Commitments on International Agreements

If international agreements of which the Kyrgyz Republic is a signatory establishes rules other than those contained in this Law, then rules of the international agreements shall be accepted.

Article 19. Liability for Violation of This Law

Citizens and officials guilty of violation of this Law shall be subject to disciplinary, administrative and criminal liability in compliance with legislation of the Kyrgyz Republic.

Article 20. Procedure for Implementation of This Law

This Law shall come into force on the day of its publication.

A. Akaev
President of the Kyrgyz Republic

Bishkek
Government House

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