

## **LAW OF THE REPUBLIC OF KAZAKHSTAN**

### **ON PLANT QUARANTINE**

This Law shall define the legislative basis and principles necessary to perform state measures on plant quarantine which are a constituent part of the system of providing national security in the territory of the Republic of Kazakhstan.

#### **CHAPTER I**

##### **General provisions**

##### **Article 1. Basic definitions used in this Law**

In this Law the following definitions shall be used:

- 1). Imported quarantine permission – the document that permits import into the republic and transit of sub-quarantine products under conditions defined by the state phyto-sanitary service on plant quarantine of the RK.
- 2). Introductory- quarantine nursery – specially equipped nursery for elicitation of hidden infection by quarantine objects and other dangerous injurious organisms in imported plant and seed materials;
- 3). Quarantine zone – the territory, designated by an established order as a quarantine territory upon the finding of quarantine objects.
- 4). Quarantine measure - the procedure aimed at protection from penetration or spreading of quarantine objects in the territory of Kazakhstan.
- 5). Quarantine object –is according to the adopted List of quarantine types a pest, a pathogenic organism of plants or a weed, which can be injurious to plants and plant products that is absent or restrictively spread on the territory of Kazakhstan.
- 6). Plant quarantine (phyto-sanitary protection)– the legal regime providing the system of state measures aimed at protecting the plant resources of the Republic and the products of plant origin from import and intrusion of quarantine objects from other countries and also from quarantine zones of the republic, and if spreading occurs the regime to localize and liquidate the cause of spreading at the breeding grounds.
- 7). Control in the sphere of plant quarantine - an activity fulfilled by officials of the State phyto-sanitary service on plant quarantine to verify the fulfillment of the requirements, norms, rules and instructions on plant quarantine;
- 8). Breeding grounds of quarantine objects – the territory where quarantine measures have been taken or will be taken on an identified quarantine object.

9). Sub-quarantine production – any materials (cargoes) by means of which quarantine objects can be spread;

10). Phyto-sanitary certificate – the document that identifies the quarantine status of sub-quarantine products for export;

11). Fumigation divisions – sub-divisions of the state phyto-sanitary service on plant quarantine that disinfect sub-quarantine products with gas.

## **Article 2. The Legislation in the Sphere of Plant Quarantine**

Legislation of the Republic of Kazakhstan on plant quarantine shall be based on the Constitution of the Republic of Kazakhstan and shall consist of this Law and other normative legal acts.

## **Article 3. Basic Objectives of Plant Quarantine**

Basic objectives of plant quarantine shall be:

- 1) protection of the territory of Kazakhstan from importation or independent penetration of quarantine objects from foreign countries or from quarantine zones of quarantine objects;
- 2) exposure, localization and liquidation of quarantine objects, and also prevention of their penetration into the regions of the Republic which do not have such objects;
- 3) state control on the observance of legislation and established rules concerning the quarantine of plants and on control over measures on plant quarantine in the territory of the Republic.

## **Article 4. Principles of Implementation of State Measures on Plant Quarantine**

The principles of implementation of state measures on plant quarantine in the territory of the Republic are as follows:

- 1) protection of plant resources and products of plant origin from spoiling and from destruction by quarantine objects for the protection of the safety of food and raw materials of the republic;
- 2) state regulation, state control and responsibility for violation of the Legislation on Plant Quarantine;
- 3) objective scientific assessment of the potential infection of the plant resources and plant products of the quarantine objects and prevention from potential damage;
- 4) active participation of the population, individuals and legal entities, state and local self-governmental bodies in implementation of plant quarantine measures;
- 5) international cooperation in the sphere of plant quarantine on the basis of appropriate treaties.

## **CHAPTER II State regulation in the sphere of plant quarantine**

### **Article 5. Bodies carrying out state regulation in the sphere of Plant Quarantine**

1. State regulation in the sphere of plant quarantine shall be carried out by the Government of the Republic of Kazakhstan's specially authorized state body - the State Phyto-sanitary

Service on Plant Quarantine and its territorial bodies, other state bodies and local self-governmental bodies in the order established by legislation.

- 2 The state phyto-sanitary service on plant quarantine includes the Republic, oblast, city and frontier phyto-sanitary inspections, frontier phyto-sanitary offices, republic, zone and frontier phyto-sanitary laboratories, fumigation divisions and introductory quarantine nurseries.
- 3 Regulation of the State Phyto-Sanitary Agency on Plant Quarantine, Rules on protection of the territory of the RK from quarantine objects (hereafter Rules on plant quarantine) and the List of quarantine objects shall be approved by the government of the Republic of Kazakhstan.
4. Officials of the State phyto-sanitary service on plant quarantine shall be considered state inspectors on plant quarantine and shall be provided with uniforms according to the established procedure.
5. The right to be a quarantine inspector shall be granted to citizens with higher and secondary special education.

#### **Article 6. Authorities of Local Representative and Executive Bodies and Local Self-government Bodies in the Sphere of Plant Quarantine**

The local representative and executive bodies and local self-government bodies shall establish procedures for the bodies of state phyto-sanitary service on plant quarantine to carry-out official responsibilities, organize and implement in control over the implementation of quarantine measures by owners or by authorized bodies of sea- and river ports, railway stations, air terminals, entities providing postal service, markets, bus-stations and other objects;

#### **Article 7. Competence of the State Phyto-Sanitary Service on Plant Quarantine**

1. The State Phyto-Sanitary Service on Plant Quarantine shall :

- 1) define the List of quarantine objects on which state measures on plant quarantine are established and performed;
- 2) record information on the spreading of quarantine objects and provide interested persons with information;
- 3) to develop and co-ordinate, according to the established procedure, normative and methodical documents concerning plant quarantine;
- 4) provide control over the specific and efficient use of appropriations and material resources for quarantine measures;
- 5) conduct quarantine inspection, laboratory examination and phyto-sanitary certification of imported and exported sub-quarantine products;
- 6) organize and conduct disinfection of sub-quarantine products and means of transport in compliance with the rules and instructions on plant quarantine;
- 7) inspect imported sub-quarantine products in introductory quarantine nurseries;
- 8) Together with scientific-research organizations to develop quarantine measures based on international norms and recommendations and carry out control over the observance of these norms and recommendations by individuals and legal entities regardless of the form of ownership;

- 9) issue phyto-sanitary certificates and import quarantine permissions for sub-quarantine products;
- 10) represent the interests of the Republic with regard to plant quarantine in international organizations;
- 11) perform other duties stipulated by legislation on plant quarantine.
2. The State Phyto-Sanitary service on Plant Quarantine shall cooperate in its activity with frontier, customs, legal protection and other state bodies.
3. Decisions made under the authority of the State Phyto-Sanitary Agency on Plant Quarantine shall be mandatory for execution by all individuals and entities, regardless of the type of ownership.
4. State bodies and their officials are obliged to render assistance to the State Phyto-Sanitary Service on Plant Quarantine in execution the of stated tasks.

#### **Article 8. Rights of officials performing state inspection on plant quarantine**

When performing quarantine control the officials of State Phyto-Sanitary service on Plant Quarantine shall have the following rights:

- 1) During the period of the phyto-sanitary examination to hold in quarantine cargo and objects imported without phyto-sanitary (quarantine) certificates, or imported without import quarantine permits.;
- 2) to free access and examination of entities, regardless of the type of ownership, for the purpose to supervise the observance of the norms of legislation and acting rules on plant quarantine by the aforementioned entities; receipt of all the necessary data for fulfillment of their duties,
- 3) sampling of products under quarantine for laboratory tests;
- 4) to perform requirements for private individuals and legal entities on implementation of measures in the quarantine breeding grounds and on transport vehicles;
- 5) to take administrative responsibility over officials and citizens that have committed violations of the legislation on plant quarantine.
- 6) To suspend the economic activity of individuals and legal entities until the violation of rules on plant quarantine is eliminated.

#### **Article 9. Obligations of the officials of state bodies and organizations, individuals and legal entities, which are involved in activity pertaining to sub-quarantine production**

The officials of state bodies and organizations, individuals and legal entities whose activity is related to manufacturing, procurement, processing, storage, transportation and sale of sub-quarantine products shall be obliged:

- 1) to follow the requirements of this Law, rules on plant quarantine and instructions of the state service on plant quarantine on conducting appropriate quarantine measures;
- 2) to submit, upon the request of plant quarantine state phyto-sanitary service inspectors, data on the presence of sub-quarantine products and quarantine objects;
- 3) to provide systematic examination of sowings, territories, storage places, where sub-quarantine production is kept, and also present for examination and expertise existing sub-quarantine production;
- 4) to immediately inform the state phyto-sanitary service on plant quarantine of exposure to quarantine objects.

### **CHAPTER III**

## **STATE CONTROL IN THE SPHERE OF PLANT QUARANTINE**

### **Article 10. Effectuation of State Control in the Sphere of Plant Quarantine**

State control in the sphere of plant quarantine shall be the responsibility of the State Phyto-Sanitary Service on Plant Quarantine.

### **Article 11. Measures of Protection of Officials, Carrying out State Control in the sphere of Plant Quarantine**

1. The officials carrying out state control in the plant quarantine sector shall be subject to the compulsory state social insurance and have the right to compensation in accordance with the order established by the legislation in case of death or injury.

2. The compensation of expenses derived from the republic's budget assets according to the order and under the conditions, established by legislation.

### **Article 12. The Objects of Control in the Plant Quarantine Sector**

The objects of control in the plant quarantine sector shall be:

- 1) seeds and planting material of agricultural, forest and decorative cultivation, plants and their parts (cuttings, bulbs, tubers, fruits), and any other production of plant origin that can be the carrier of quarantine objects;
- 2) pathogenic organisms of plants –cultures of living fungus, viruses, bacteria, as well as nematodes, ticks, insects;
- 3) collections of insects, pathogenic organisms of plants, herbariums and seeds collections;
- 4) agricultural machines and implements for cultivation of land, means of conveyance, all kinds of packing, packing material, industry products and products of plant origin, monoliths and soil samples that can be the carrier of quarantine objects;
- 5) the territory and premises of the organizations, peasantry (farm), plots of land attached to the house and country plots that grow, prepare, store, process and sell the products of plant origin, agricultural areas and forests, water and others regardless of the type of ownership and form of property.

### **Article 13. The Order of Import and Export of Sub-Quarantine Production**

1. When entering agreements on sub-quarantine products supply or transit the supplier shall obtain essential information on quarantine measures from the state phyto-sanitary service on plant quarantine and make provisions for the conditions to prevent importation of quarantine objects.

Any agreement containing confidential information shall not be disclosed without the written consent of the supplier.

2. Import of sub-quarantine products into the Republic of Kazakhstan shall be permitted through frontier phyto-sanitary bodies subject to the permission of the state phyto-sanitary service on plant quarantine of the Republic of Kazakhstan and phyto-sanitary certificates of national quarantine services of the country of export.

Customs documents on sub-quarantine products shall be processed after passing phyto-sanitary control.

Quarantine measures of other countries shall be recognized if such measures meet the appropriate level of phyto-sanitary protection applied in the Republic of Kazakhstan.

3. Products under-quarantine shall be transited upon the agreement with the State Phyto-Sanitary service on Plant Quarantine of the Republic of Kazakhstan.

4. Export and internal transportation of sub-quarantine products shall be permitted under the presence of phyto-sanitary certificates issued by the State Phyto-Sanitary Agency on Plant Quarantine of the Republic of Kazakhstan.

5. Inspection and disinfection of products under quarantine, cargo and transportation facilities , and the issuance of quarantine documents shall be charged to the owners of the products in accordance with inter-state treaties on plant quarantine and the legislation of the Republic of Kazakhstan .

#### **Article 14. Procedure for Imposition and Withdrawal of Quarantine**

1. A decision to establish or cancel a quarantine zone with a new quarantine regime proposed by the Bodies of State Phyto-Sanitary Agency on Plant Quarantine shall be made final by:

- 1) The Government of the Republic of Kazakhstan – on the territory of two or more oblasts;
- 2) Local executive body – in the territory of an oblast or region.

2. In quarantine zones, exportation of products infected by quarantine objects of sub-quarantine productions shall be either prohibited or restricted; measures on localization and liquidation of the breeding grounds of quarantine objects shall be developed and implemented; disinfection and technical processing of subquarantine products shall be carried out.

Infected products that have been transported from a quarantine zone shall be subject to either restitution, disinfection or transfer to processing organizations.

If an infected product is not subjected to disinfecting and processing, it shall be subject to withdrawal and destruction in the order established by normative legal acts.

A list of quarantine restrictions and measures on localization and liquidation of quarantine objects shall be made known to individuals, legal entities and the population of the quarantine zone.

### **CHAPTER IV**

#### **Settlement of Disputes and Liability for the Violation of Legislation on Plant Quarantine**

##### **Article 15. Settlement of Disputes in the Sphere of Plant Quarantine**

Disputes in the sphere of plant quarantine shall be settled pursuant to procedures, stipulated by the legislation of the Republic of Kazakhstan.

##### **Article 16. Liability for Violation of Legislation on Plant Quarantine**

1. Individuals and legal entities that violate the legislation on plant quarantine shall be held liable for violation of the legislation on plant quarantine in accordance with the legislation of the Republic of Kazakhstan.

2. Monetary funds that have been recovered because of violation of plant quarantine legislation shall be transferred to the budgetary incomes of the republic in the order established by the legislation of the Republic of Kazakhstan.

## **CHAPTER V**

### **Financing of State Phyto-Sanitary Service on Plant Quarantine and Quarantine Measures**

#### **Article 17 Financing of the State Phyto-Sanitary Service on Plant Quarantine**

The state phyto-sanitary service on plant quarantine shall be financed by the republic's budgetary fund and monetary funds of the owners of sub-quarantine cargoes received for the fulfillment of the works stipulated by the intergovernmental agreements in the area of plant quarantine as well as other sources that are not prohibited by the legislation.

#### **Article 18. Financing of State Measures on Plant Quarantine**

1. Financing of state measures on localization and liquidation of quarantine objects, in accordance with the list of quarantine pests, plant diseases and weeds shall be from the republic's budget..

2. Measures on quarantine of plants under private ownership, as well as on lands of individuals and legal entities shall be financed out of monetary funds of owners and land users in accordance with the instructions of the Bodies of the State Phyto Sanitary Agency on Plant Quarantine and within the limit of the authority granted to them.

## **CHAPTER VI**

### **International Cooperation in the area of Plant Quarantine**

#### **Article 19. Principles of International Collaboration in the Plant Quarantine Sector**

The Republic of Kazakhstan shall implement international collaboration in the plant quarantine sector with regard to the principles of mutual safety in terms of entry and spreading of quarantine objects.

#### **Article 20. Activity of Foreign Organizations and Citizens in the area Plant Quarantine in the Territory of the Republic of Kazakhstan**

Foreign organizations and citizens shall be allowed to implement their activity in the sphere of plant quarantine on the territory of the Republic of Kazakhstan if it does not contradict the legislation of the Republic of Kazakhstan or is being regulated by international agreements.

## **Article 21. International Agreements of the Republic of Kazakstan in the Plant Quarantine Sector**

If international treaties that have been ratified establish other norms than those contained in this Law, the rules of international treaties shall be applicable.

**12) President  
of the Republic of Kazakhstan**