

## THE REPUBLIC OF LITHUANIA

### LAW

### ON PHYTOSANITARY

16 December 1999 No VIII-1481

Vilnius

## CHAPTER ONE

### Article 1. Purpose of the Law

1. The purpose of the present law is to establish preventive measures against the introduction of organisms harmful to plants and plant products into the territory of the Republic of Lithuania and the spread thereof.

2. This Law shall regulate the mandatory phytosanitary requirements and the basic principles of phytosanitary control for natural and legal persons and enterprises without the status of a legal person engaged in **planting**, propagation, importing, storage, transportation and marketing of plants, and in production, importing, storage, transportation, and marketing of plant products and other objects.

### Article 2. Definitions

1. **Plants** shall mean plants and their parts (seeds within the meaning of their botanical definition, other than those not intended for sowing; fruits (within the meaning of their botanical definition) and vegetables, other than deep frozen, tubers, bulbs, corms, rhizomes, cut flowers, cut trees and branches with foliage, plant tissue cultures, including mycelium of cultivated mushrooms.

2. **Plant products** shall mean unprocessed plant products or those which after a simple preparation are no longer plants.

3. **Other objects** shall mean plant products used for product packaging, soil, peat, organic fertilisers, organic and mineral substratum for plant growing, also objects intended for the treatment of plants, agricultural machinery and implements, all sorts of containers, storage facilities, transport and other objects which can serve as media for the transmission of harmful organisms.

4. **Planting** shall mean creation of adequate conditions for plants to grow in an environment intended for their growing and propagation

5. **Phytosanitary measures** shall mean a set of legal measures against introduction and spreading of organisms harmful in respect of plants and plant products.

6. **Posts of phytosanitary control** shall mean customs units officially established at cross-border points or other places where the national plant protection authority carries out inspections of the phytosanitary condition of plants and plant products.

7. **Phytosanitary register** shall mean the measure for the systematisation, accumulation, and storage of official information about legal and natural persons, as well as enterprises without the status of a legal person, engaged in planting, propagating, importing, warehousing and transporting, marketing and purchasing of plants and plant products.

8. **Phytosanitary certificate** shall mean an official document issued by the State Plant Protection Service to confirm that the phytosanitary condition of plants, plant products and other objects is in conformity with the requirements established by the importing country.

9. **Phytosanitary control** shall mean actions of the State Plant Protection Service officers in respect of checking the documents of a consignment of plants, plant products, or other objects, and in respect of the evaluation of the phytosanitary condition of the consignment through visual inspection and the trials of samples.

10. **Harmful organisms** shall mean animals, plants, fungi, bacteria, virus and virus-like organisms which can at any stage of their development be harmful to plants and plant products, or contaminate their place of growing.

11. **Laboratory expertise** shall mean the set of laboratory trials performed on samples of plants, plant products or other objects for the detection and identification of harmful organisms.

12. **The planting material** shall mean seeds, plants or their parts as well as all the material intended for propagation of plants.

13.. **The State Plant Protection Service** shall mean the institution under the Ministry of Agriculture and authorised by it to perform phytosanitary control of plants, plant products and other objects.

## **CHAPTER TWO**

### **GENERAL PHYTOSANITARY MEASURES**

#### **Article 3. State Control of the Phytosanitary Condition of Plants, Plant Products and Other Objects**

1. The State Plant Protection Service shall carry out the following state control of phytosanitary condition of plants, plant products and other objects:

- 1) implement the regulations of the Phytosanitary Register;.
- 2) control the imported plants, plant products and other objects;
- 3) identify harmful organisms;

4) assess the presence of harmful organisms and their spread in the territory of the Republic of Lithuania

5) establish the centres of harmful organisms and supervise eradication of said organisms;

6) assess the exported plants, plant products and other objects;

7) apply the prescribed measures to legal and natural persons and enterprises without the status of a legal person that fail to comply with the requirements of this Law and other legal acts necessary for its implementation.

2. The State Plant Protection Service shall organise special examination and observation to establish the presence and spread of harmful organisms in the territory of the Republic of Lithuania during the most suitable season for detection of these organisms.

3. Officers of the State Plant Protection Service shall have the right, having produced relevant identification, to enter any facilities and territories and carry out phytosanitary inspection.

4. Risk analysis of harmful organisms shall be carried out in accordance with the appropriate legislation of the European Union, the methods and standards approved by the World Trade Organisation, and the procedure of carrying out phytosanitary control and application of phytosanitary measures established in the Republic of Lithuania.

5. Legal and natural persons, and enterprises without the status of a legal person in the case of discovery of unknown or strange organisms in their private, rented or used on any other basis plots of land, storage or other facilities shall be obliged to inform without undue delay the State Plant Protection Service.

#### **Article 4. Preventive Measures against Introduction and Spread of Harmful Organisms**

1. Plants, plant products and other objects must meet phytosanitary requirements at the stage of their growing, production, storage, marketing and transportation.

2. It shall be prohibited to import, store, transport, and propagate harmful organisms at any stage of their development.

3. The Minister of Agriculture shall approve:

1) lists of harmful plants, plant products and other objects importation of which is prohibited;

2) the list of plants, plant products and other objects importation of which is subject to special requirements;

3) the list of plants, plant products and other objects which must be subject to phytosanitary control;

4) the procedure for carrying out phytosanitary control and for the application of special measures in respect of import and transportation of plants, plant products and other objects, which may be contaminated with harmful organisms;

5) the procedure for the storage of harmful organisms in scientific institutions for the purpose of scientific experiments or varietal selection.

6) the procedure of issuance of certificates for exported plants, plant products and other objects.

4. In case of the emergence of a centre of harmful organisms which do not appear on the lists or in case of other danger of spread thereof, the State Plant Protection Service

must immediately apply phytosanitary measures which, however, may not last longer than 3 months. The time limit for the application of the measures may be extended by the Minister of Agriculture if need be.

5. Phytosanitary measures shall be applied with due regard to the effect of harmful organisms on plants and plant products and the risk of their spread, with the aim to minimise the negative effects of these measures upon the manufacturing and other commercial activities.

6. Pursuant to paragraph 1 of Article 1 of this Law, the Minister of Agriculture shall establish the procedure under which the officers of the State Plant Protection Service apply the following measures:

1) report about the emergence of harmful organisms or about the likelihood of their emergence;

2) order their destruction or disinfection of the contaminated plants, plant products and other objects, and control the implementation of said measures;

3) restrict the use of the contaminated land or ban growing of certain plants if they are infected with harmful organisms or there is a threat that they might become contaminated;

4) ban the marketing of plants intended for further planting if they are contaminated with harmful organisms or there is a threat that they might become contaminated;

5) ban or restrict the storage, transportation and marketing of harmful organisms or contaminated plants, plant products and other objects;

6) permit the use of contaminated plants, plant products and other objects only subject to the change of their intended use;

7) apply other scientifically motivated measures.

7. The Government shall determine the exceptional cases and the procedure governing the recovery of loss incurred by plant growers in connection with the application of said phytosanitary measures.

## **CHAPTER THREE**

### **PHYTOSANITARY CONTROL AT PRODUCTION**

#### **Article 6. Phytosanitary Register**

1. All natural and legal persons as well as enterprises without the status of a legal person who grow and propagate plants; and who are engaged in the importing, warehousing, transporting, marketing, and buying up of plants, also those who are engaged in the production, importing, warehousing, transporting, marketing and buying up plant products and other objects, for which phytosanitary control is mandatory, must be registered with the Phytosanitary Register.

2. The Phytosanitary Register shall be kept by the State Plant Protection Service in accordance with the procedure determined by the Government.

3. Small growers and producers who grow plants and produce plant products for their personal consumption or sale solely within their domestic market (except those involved in growing and propagating seeds and planting material) where planting and production of plant products is not their main activity, shall not be registered, except when provided otherwise by the Minister of Agriculture.

## **CHAPTER FOUR**

### **PHYTOSANITARY CONTROL AT IMPORT AND EXPORT**

#### **Article 6. Phytosanitary Control of Consignments of Plants, Plant Products and Other Objects at Import**

1. Plants, plant products and other objects at import or in transit shall be free from contamination with harmful organisms, at any stage of their development, which are specified in the lists approved by the Minister of Agriculture.

2. Provisions of paragraph 1 of this Article may not apply where plants, plant products and other objects are in transit in tightly closed and sealed reservoirs without reloading them in the territory of the Republic of Lithuania on condition that there is no risk of spread of harmful organisms.

#### **Article 7. Import Procedure for Plants, Plant Products and Other Objects**

1. Plants, plant products and other objects may be imported only through those border-crossing points of the Republic of Lithuania which have posts of phytosanitary control, or other entry points, where the phytosanitary condition of plants, plant products and other objects is inspected by the State Plant Protection Service.

2. All natural and legal persons as well as enterprises without the status of a legal person importing plants, plant products and other objects must follow the provisions laid down in the legal acts regulating imports of plants, plant products and other objects, declare the imported consignment, produce the documents of the consignment, and must not interfere with the controls which are carried out by the officers of the State Plant Protection Service.

3. The control of the phytosanitary condition of plants, plant products and other objects during their importation and transit shall be carried out by the officers of State Plant Protection Service. Phytosanitary control which shall consist of checking of the consignment documents, visual inspection of the consignment and trials of samples, must be carried out before the customs clearance.

4. Plants, plant products and other objects imported into the Republic of Lithuania and intended for personal consumption must conform to the prescribed phytosanitary requirements.

5. Postal parcels sent to the Republic of Lithuania and containing plants, plant products and other objects shall be subject to the same requirements of phytosanitary control and phytosanitary inspection as those applied to plants and plant products imported otherwise.

6. The procedure for the phytosanitary control and the list of entry points where phytosanitary control is carried out shall be jointly approved by the Minister of Agriculture and the Minister of Finance.

### **Article 8. Import Derogations**

The State Plant Protection Service, in accordance with the established procedure, may allow imports of harmful organisms, plants, plant products or other objects the importation of which is forbidden, where these will be exclusively used in trials for scientific purposes or for work on varietal selection.

### **Article 9. Decisions of Officers of the State Plant Protection Service during the Controls of Plants, Plant Products and Other Objects at Import**

Taking into consideration the results produced by phytosanitary controls on the imported plants, plant products and other objects, the officer of the State Plant Protection Service shall take one of the following decisions:

1) allow the import of the consignment into the territory of the Republic of Lithuania having ascertained that this consignment is free from contamination with harmful organisms;

2) detain the consignment for sampling and further laboratory trials for the purpose of detecting harmful organisms, where there is suspicion that it can be contaminated;

3) treat plants, plant products and other objects if the consignment is contaminated by harmful organisms;

4) destroy or re-import the consignment of plants, plant products and other objects (or part thereof) to the sending country, when it is contaminated by harmful organisms, and when treatment is impossible or ineffective;

5) detain or re-import the consignment of plants, plant products and other objects to the sending country if the carrier does not have the relevant documents under the prescribed procedure of phytosanitary control or where the available documents are not in compliance with the established requirements.

### **Article 10. Phytosanitary Control at Export**

1. The exporter of every consignment of plants, plant products and other objects intended for export must have its phytosanitary certificate which is granted subject to the compliance with the requirements of the country of destination.

2. It shall be allowed to export and send harmful organisms by post for scientific purposes upon prior agreement from the country of destination.

3 Phytosanitary certificates for export of plants, plant products and other objects shall be issued by the State Plant Protection Service in accordance with the established procedure.

#### **Article 11. Covering of Costs of Phytosanitary Control at Export and Import**

All additional costs of phytosanitary controls of plants, plant products and other objects subject to import and export, treatment of the consignment or its destruction shall be covered by the importer, exporter, or their authorised persons.

### **CHAPTER FIVE**

#### **INTERNATIONAL CO-OPERATION AND RECOGNITION OF PLANT**

##### **PROTECTION MEASURES EXISTING IN OTHER COUNTRIES**

#### **Article 12. International Co-operation**

1. The State Plant Protection Service shall co-operate with plant protection authorities in other countries, exchange information and perform other actions necessary for the implementation of international obligations in matters related to phytosanitary.

2. Head of the State Plant Protection Service shall, within his competence, represent the Republic of Lithuania in international organisations.

#### **Article 13. Recognition of Plant Protection Measures Existing in Other Countries**

1. Plant protection measures existing in another country shall be recognised subject to objective proof provided by this country that it has attained an equivalent level of plant protection.

2. Recognition of the equivalence of phytosanitary measures may be established by treaties between the Ministry of Agriculture of the Republic of Lithuania and its counterpart in a foreign country..

### **CHAPTER SIX**

#### **LIABILITY**

#### **Article 14. Liability for Violations of this Law**

For violations of the provisions of this Law, an action shall be taken against natural and legal persons as well as enterprises without the status of a legal person by the officers of the State Plant Protection Service in accordance with the procedure established by the laws of the Republic of Lithuania.

#### **Article 15. Procedure of Complaints against the Decisions of the Officers of the National Plant Protection Service**

1. Decisions of the officers of the State Plant Protection Service concerning the application of phytosanitary measures to the consignments of plants, plant products and other objects arriving in the Republic of Lithuania may be appealed against to the head of the State Plant Protection Service within one working day from the adoption of the decision.

2. Decisions of the officers of the State Plant Protection Service concerning the application of phytosanitary measures to plants, plant products and other objects present in the territory of the Republic of Lithuania may be appealed against to the head of the State Plant Protection Service within ten days from the adoption of the decision.

3. Decisions of the head of the State Plant Protection Service may be appealed against to the court within ten days

### **CHAPTER SEVEN**

#### **FINAL PROVISIONS**

#### **Article 16. Proposal to the Government of the Republic of Lithuania**

The Government of the Republic of Lithuania shall, by December 1, 2000, approve the regulations of the Phytosanitary Register, and establish the sequence and deadlines for drafting of secondary legislation necessary for the implementation of this Law.

#### **Article 17. Implementation of the Law**

The Minister of Agriculture shall be responsible for the implementation of this Law. Application of the phytosanitary measures shall be controlled by the State Plant Protection Service

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS