

# **THE LAW OF THE REPUBLIC OF TAJIKISTAN ON PLANT QUARANTINE**

The present Law shall determine the legal and organizational bases in the field of plants quarantine maintenance and includes phytosanitary quarantine measures promoting protection of plants from penetration, occurrence and distribution of pests, illnesses and weeds.

## **CHAPTER 1. GENERAL PROVISIONS**

### **Article 1. Basic Definitions**

The following definitions shall be used in this Law:

- Quarantine - official detention of materials subject to quarantine in the closed quarantine conditions for supervision and research or for the subsequent examination, analysis or processing;
- Plants - plants and parts thereof including the seeds and genetic material of plants;
- Plants quarantine - activity directed to prevention of introduction and/or distribution of quarantine hazardous organisms or to maintain the official control over them;
- Products of plant origin - unprocessed material of plant origin (including grain), and also processed products which, by their nature or characteristics of their processing can create risk of introduction and distribution of quarantine hazardous organisms;
- Materials subject to quarantine - plants, plant products, warehouse , packaging, means of transport, container, soil and any other organisms, object or material that may become bearers of harmful organisms or facilitate the spread of harmful organisms, related to which phytosanitary measures need to be taken , in particular when involving international transportations;
- Fumigation - treating the given goods by chemical substances completely or essentially in a gaseous state;
- Decontamination - the extraction of poisonous substances;
- Phytosanitary quarantine measures – official measures or regulations directed to preventing the introduction or the spread of harmful quarantine organisms, or to minimization of damage caused by not harmful quarantine regulated organisms;
- Harmful organism - type, species or biological species, animals or bearers of diseases that are capable of causing harm to plants or products of plant origin;
- Quarantined harmful organism - harmful organism having an economic importance for the risk exposed area, where it is absent or of limited presence, but is of limited spread and is under the official control;
- Introduction - penetration of a harmful organism accompanied by its acclimatization;
- Phytosanitary quarantine zone - a zone where a phytosanitary quarantine regime is imposed due to its exposure to materials subject to quarantine;
- Phytosanitary quarantine regime -phytosanitary quarantine measures imposed in a phytosanitary quarantine zone;
- Phytosanitary certification - application of phytosanitary measures leading to issuing of a phytosanitary certificate;
- Phytosanitary certificate - a document confirming compliance of materials subject to quarantine with the rules and standards for providing the quarantine of plants;

- State phytosanitary quarantine control - an active implementation of mandatory phytosanitary regulations and procedures for the purpose of liquidation or localization of quarantine harmful organisms or managing regulated non-quarantine harmful organisms;
- Rules and standards for providing the quarantine of plants -normative legal acts, normative technical and methodological documentation for providing the quarantine of plants;
- Import quarantine permit - an official document permitting the import the goods concerned that meet the appropriate phytosanitary import requirements;
- Cargo - a quantity of plants, plant products or other materials being moved from one country to another accompanied by (if necessary) by a single phytosanitary certificate (the cargo may comprise one or more kinds of goods or consignments);
- Consignment - all of the items of given good having uniform composition, origin etc., being the part of cargo;
- Free zone - a zone where the absence of hazardous organism has been proven scientifically, which can be supported officially if necessary;
- Phytosanitary risk analysis - biological, scientific and economic data validation for the purpose of establishing the level of harmfulness of the organism and the assessment of importance of phytosanitary measures against it;
- Transit cargo - a cargo that is not imported to the country but rather goes through it to another a country, which can be subject to phytosanitary measures;
- Re-export cargo - a cargo imported to the country that is subsequently exported. The cargo can be kept, divided into parts, mixed up with other cargoes or repacked;
- Authorized state body - a state body exercising, within the limits of its powers, the state policy in the area of providing the quarantine of plants.

**Article 2.** The legislation of Republic of Tajikistan on the Quarantine of Plants

The legislation of the Republic of Tajikistan on the quarantine of plants shall be based on the Constitution of Republic of Tajikistan and consists of the this Law, other regulations and legal acts of The Republic of Tajikistan and international legal acts recognized by The Republic of Tajikistan.

**Article 3.** Powers of the Government of Republic of Tajikistan

The powers of the Government of the Republic of Tajikistan for ensuring the quarantine of plants include the following:

- Development and implementation of a single state policy related to ensuring the quarantine of plants;
- Realization of state phytosanitary quarantine supervision;
- Imposition and cancellation of a phytosanitary quarantined zone, and the imposition and cancellation of a phytosanitary regime;
- Adoption of rules and standards for ensuring the quarantine of plants;
- Development and adoption of the list of materials subject to quarantine in observance of the state standards for ensuring the quarantine of plants;
- Enforcement of commitments under international agreements on cooperation of the Republic of Tajikistan, in the sphere of quarantine of plants.

## CHAPTER 2. STATE BODY FOR ENSURING PHITOSANITARY CONTROL AND THE QUARANTINE OF PLANTS

### **Article 4.** Authorized State Body for Ensuring the Plant Quarantine

The state phytosanitary control and the plant quarantine in the Republic of Tajikistan shall be performed by the authorized state body for ensuring plant quarantine, which shall be determined by the Government of the Republic of Tajikistan.

The character, structure, and other organizational and legal matters of this authorized state body shall be established by the Government of the Republic of Tajikistan.

### **Article 5.** Competencies of the Authorized State Body

Competencies of the authorized state body shall be the following:

- Adoption of rules and standards for ensuring the quarantine of plants and state phytosanitary quarantine control;
- Development and adoption of the list of quarantine organisms;
- Definition of principles of classification of quarantine organisms and performing the phytosanitary risk analysis in accordance with principles of international standards;
- Phytosanitary certification of the material subject to quarantine and issuance of a phytosanitary certificate;
- Issuing of the quarantine import permit for the material subject to quarantine in accordance with principles of the international standards;
- Preparation of the list of the materials subject to quarantine in accordance with international standards and the presentation thereof to the government of Tajikistan for approval;
- Determination of conditions and requirements for importing materials subject to quarantine into, and exporting them from, the territory of The Republic of Tajikistan in accordance with the international standards;
- Control of the carrying out of phytosanitary measures against quarantine harmful organisms;
- Research of harmful organisms present in the Republic that are not included in the list of quarantine harmful organisms and deciding on classification of such harmful organisms;
- Carrying out of control examinations of the materials subject to quarantine;
- Definition of the phytosanitary status of territories in The Republic of Tajikistan;
- Decontamination of the materials subject to quarantine;
- Informing of an agency for ensuring the quarantine of plants of the exporting country of any harmful quarantine organisms discovered during the control of the imported goods;
- ***Ensuring transparency in the process of development, adoptions and implementation of phytosanitary quarantine measures.***

**Article 5<sup>1</sup>. Principles of the State Supervision and Control in the Area of Phytosanitary Quarantine Measures**

***Procedures of the state supervision and control in the area of phytosanitary quarantine measures shall be implemented:***

- ***Immediately, without any delay and discrimination with regard to imported materials subject to quarantine under the phytosanitary control;***
- ***Only on the basis of facts and information, which are required for carrying out procedure;***
- ***Providing the applicant with the information about time limits for completion of the procedure and its results, as well as possible shortcomings of the application;***
- ***Ensuring the protection of confidential information;***
- ***By taking samples only in the amount necessary for carrying out control and certification procedures.***

**Article 6. Rights of the Officials Performing the State Phytosanitary Control and the Plant Quarantine**

A State phytosanitary control and the plant quarantine shall be carried out by the officials of the authorized state body for ensuring the quarantine of plants.

The officials performing the state phytosanitary control and the plant quarantine, within their competencies, shall have the right to:

- Carry out of examinations without hindrance of the materials subject to quarantine belonging to the individual entrepreneurs, citizens and organizations, regardless of the legal-organizational form and the form of ownership of the organization that owns such materials;
- Receive documents and information on plant quarantine from state authorities, executive bodies of GBAO, district, City of Dushanbe, towns and districts, bodies of local self-government, organizations, individual entrepreneurs and citizens;
- Perform the phytosanitary quarantine examinations of the materials subject to quarantine and the supervision of the materials subject to quarantine, including locations of their preparation and delivery;
- Take samples and specimens of the materials subject to quarantine;
- Prohibit or suspend production, procurement, import into and export from the territory of Republic of Tajikistan, transport, storage, processing, using and sale of the materials subject to quarantine;
- Provide organizations, individual entrepreneurs and citizens with mandatory instructions that must be executed within the given period, on eliminating the violation of the rules and measures of the plant quarantine;
- Decide on decontamination, purification, hazardous objects removal (degassing) and restitution of the materials subject to quarantine;
- Seize and decontaminate the materials subject to quarantine if necessary, to ensure phytosanitary purity;
- Perform other powers established by the legislation of the Republic of Tajikistan in the sphere of the quarantine of plants.

The influence in any form on the officials who perform the state phytosanitary control and the plant quarantine with the purpose of influencing their decision making or hindering their activity shall be prohibited.

**Article 7. Marking of the Authorized State Body for Ensuring the Plant Quarantine**

The authorized state body for ensuring the plant quarantine shall have its own marking.

The regulation on the marking of the authorized state body for ensuring the plant quarantine shall be issued by the Government of the Republic of Tajikistan.

**Article 8. Uniform of the Workers of the Authorized State Body for Ensuring the Plant Quarantine**

The workers of the authorized state body for ensuring the plant quarantine shall have the right to wear the uniform whose model shall be determined by the Government of the Republic of Tajikistan.

**CHAPTER 3. ENSURING THE PLANT QUARANTINE**

**Article 9. Imposition and Cancellation of a Phytosanitary Quarantine Zone and Phytosanitary Quarantine Regime**

In case of an infection (or contamination) of the materials subject to quarantine by quarantine harmful organisms, the authorized state body for ensuring the plant quarantine shall present its suggestions to the Government of the Republic of Tajikistan to establish a phytosanitary quarantined zone and a phytosanitary quarantine regime, and shall empower an executive body to impose the quarantine.

In the phytosanitary quarantined zone, measures to control the quarantined objects, to ensure their restriction, and the eradication of their origins, shall be conducted together with the imposition of a ban on the use of certain products under quarantine, or a ban on the removal of certain products under quarantine, from the area of a phytosanitary quarantined zone, as well as the introduction of any other bans and restrictions deemed necessary.

When the eradication of the origin of quarantine harmful organisms has been achieved, the authorized state body for ensuring the plant quarantine shall present to the Government of the Republic of Tajikistan the proposal to cancel the phytosanitary quarantined zone and the phytosanitary quarantined regime.

Phytosanitary quarantined zones or territories of the Republic of Tajikistan, which as the result of official inspection are found to be free of quarantine harmful organisms, in accordance with the principles of international standards may be considered to be free of quarantine harmful organisms.

Scientific data and the results of inspection and supervision shall be made available to quarantine and plant protection bodies of other countries in accordance with applicable bilateral agreements.

## *Article 9<sup>1</sup>. Development and Adoption of Phytosanitary Quarantine Measures*

*Phytosanitary quarantine measures shall be adopted and developed:*

- *To the extent required for protection of the territory of the Republic of Tajikistan from introduction and spread of quarantine harmful organisms and protection of life and health of humans;*
- *Taking into account scientific principles and available scientific data, international standards, guidelines and recommendations;*
- *On the basis of assessment of risk to human and animal life and health realized in accordance with methodologies of international organizations;*
- *Avoiding arbitrary and unjustified discrimination between the territory of the Republic of Tajikistan and territories of other countries and among countries with identical and similar phytosanitary conditions.*

*When assessing the risk in the process of development and adoption of phytosanitary measures, the authorized body shall take into account the following:*

- *Scientific data, specific manufacturing process and methods, methods of supervisory control, selection and testing of samples, the existence of harmful quarantine organisms, availability of districts free from any harmful quarantine organisms or districts with low level of spread of harmful quarantine organisms, relevant conditions of environment and other measures;*
- *Economic indicators, including determination of losses in production and trade in case of introduction and spread of harmful quarantine organisms;*
- *Costs for carrying out control and liquidation of harmful quarantine organisms;*
- *Effectiveness and cost of other approaches aimed at risk minimization.*

*Upon availability of satisfactory scientific evidences for objective evaluation of the threat or in case of emergency circumstances, the authorized body shall have the right to take interim quarantine measures based on the available data, including data of international organizations and information on phytosanitary quarantine measures in other countries.*

*Phytosanitary quarantine measures taken shall be in compliance with phytosanitary quarantine conditions of a region from which materials subject to phytosanitary quarantine examination originate. In the course of evaluation of phytosanitary quarantine conditions, the authorized body shall also take into account phytosanitary status of plants in the Republic of Tajikistan and in the exporting country, the existence of harmful quarantine organisms, existence of control and eradication of harmful quarantine organisms, existence of harmful quarantine organisms free regions or regions with low level of harmful quarantine organisms incidence as well as criteria and guiding principles of relevant international organizations.*

*Phytosanitary measures taken may provide higher level of protection of plants from harmful organisms and human life and health than the level achieved in accordance with measures based on international standards, guidelines and recommendations if they are scientifically justified and if such a level of protection is deemed to be the appropriate one.*

*In the process of taking phytosanitary measures, including interim measures taken in emergency circumstances, the authorized body shall follow the occurrence of new scientific data.*

### ***Article 9<sup>2</sup>. Providing the Information***

*The authorized body shall, through single information center, provide the information, documents and data in accordance with international agreements related to the following:*

- *Proposed and adopted phytosanitary quarantine measures;*
- *Measures of control, inspection and certification of materials subject to quarantine and quarantine procedures;*
- *Procedures for assessment of risk and methods of determination of appropriate level of protection of plants from harmful organisms in the Republic of Tajikistan, and also on existence of bilateral and multilateral international agreements and contracts.*

### **Article 10. Phytosanitary Quarantine Certification of Materials Subject to Quarantine**

Importation into the territory of Republic of Tajikistan and the zones free of harmful organism, exportation from the phytosanitary quarantined zones of The Republic of Tajikistan and the transportation of the materials subject to quarantine, shall be allowed in the cases prescribed by the rules and standards for ensuring the quarantine of plants, if the phytosanitary certificate confirms compliance of the materials subject to quarantine with the rules and standards for ensuring the quarantine of plants.

Any materials subject to quarantine imported into the territory of the Republic of Tajikistan shall be accompanied by the phytosanitary certificate issued by the authorized state body for ensuring plant quarantine of the exporting country and the import quarantine permit.

Certification of exported or re-export goods shall be performed by the authorized state body for ensuring plant quarantine in accordance with international standards.

Phytosanitary and re-export certificates shall be issued the state inspectors of the authorized state body for ensuring plant quarantine.

Export phytosanitary certificates and re-export certificates and their electronic equivalents acceptable for an importing country shall comply to international standards.

### ***Article 10<sup>1</sup>. Equivalence of Phytosanitary Quarantine Measures***

*Phytosanitary quarantine measures approved in other country shall be considered as equivalent to measures applied in the Republic of Tajikistan if the authorized body establishes that measures applied in another country ensure the appropriate protection of plants from harmful quarantine organisms equal to that required in the Republic of Tajikistan or higher.*

*Decree on recognition of equivalency of veterinary-sanitary measures shall be available to the public.*

### **Article 11. Protection of the Territory of the Republic of Tajikistan from Quarantine Harmful Organisms**

Materials subject to quarantine shall be imported into the territory of The Republic of Tajikistan and transported within the territory of the Republic of Tajikistan in compliance with the rules and standards for ensuring the plant quarantine established by the legislation of The Republic

of Tajikistan, as well as by the standards of international agreements on cooperation in the sphere of quarantine recognized by The Republic of Tajikistan.

Import into the territory of The Republic of Tajikistan of Materials subject to quarantine infected by quarantine harmful organisms (except as determined by the rules and standards for ensuring the quarantine of plants), as well as the import of materials subject to quarantine, shall be prohibited, if the rules and standards for ensuring the quarantine of plants have been violated.

Materials subject to quarantine imported into the territory of The Republic of Tajikistan shall be subject to compulsory state phytosanitary quarantine control and examination.

Materials subject to quarantine may be imported into the territory of The Republic of Tajikistan only through designated entry points on the state border of The Republic of Tajikistan.

Entry points on the state border of The Republic of Tajikistan shall be equipped in accordance with the rules and standards for ensuring the quarantine of plants and shall be provided with means of transport and communication.

Materials subject to quarantine imported into the territory of The Republic of Tajikistan through the entry points on the state border of The Republic of Tajikistan, shall be subject to primary state phytosanitary quarantine control and examination, and shall be subject to secondary state phytosanitary supervision at their destinations.

State phytosanitary quarantine control of the import into and the export from the territory of The Republic of Tajikistan of the materials subject to quarantine shall be performed by the authorized state body for ensuring the plant quarantine.

The use of materials subject to quarantine infected by quarantine harmful organisms shall be prohibited, except as determined by the rules and standards for ensuring the quarantine of plants.

The imposition of phytosanitary quarantine measures and restrictions of any form not related to ensuring the quarantine of plants shall be prohibited.

#### **Article 12.** The Decontamination, Cleansing and Degassing of Materials Subject to Quarantine

Materials subject to quarantine imported into the territory of The Republic of Tajikistan, which are infected by quarantine harmful organisms, shall be subject to decontamination at the entry points on the state border of The Republic of Tajikistan or at their destination, with the exceptions determined by the rules and standards for ensuring the quarantine of plants.

Materials subject to quarantine imported into the territory of The Republic of Tajikistan from countries with quarantine harmful organisms, shall be subject to preventive decontamination as determined by the rules and standards for ensuring the quarantine of plants.

Means of transport used for the transportation of the materials subject to quarantine shall be subject to compulsory cleansing or, if required, to decontamination, according to the rules and standards for ensuring the quarantine of plants.

Decontamination of materials subject to quarantine by the use of a gassing method, and the extraction of poisonous substances (by degassing), shall be carried out by the authorized state body for ensuring the plant quarantine.

Decontamination, cleansing and degassing of materials subject to quarantine shall be carried out according to the rules and standards for ensuring the quarantine of plants.

#### **Article 13.** Exposure of Quarantined Objects and Prevention of Their Spread

For the timely identification of quarantine harmful organisms and their country of origin, materials subject to quarantine shall be subject to systematic phytosanitary quarantine observation.

Upon identification of the origin of the relevant territories of quarantine harmful organisms, a phytosanitary quarantine regime shall be imposed under the procedure specified by Article 9 of this Law.

#### **Article 14. Removal, Destruction, and Return of Materials subject to Quarantine**

In compliance with the legislation of The Republic of Tajikistan, in order to prevent the infection or spread of quarantine harmful organisms in the territory of The Republic of Tajikistan, materials subject to quarantine may be removed, destroyed, or returned upon the orders of the officials of the authorized state body for ensuring the plant quarantine.

#### **Article 15. Laboratory Testing and Examination of Materials subject to Quarantine**

In order the phytosanitary quarantine status of the materials subject to quarantine to be determined, such material shall be subject to the state phytosanitary control, including if necessary, laboratory analysis and testing.

Laboratory analysis and testing to determine the phytosanitary quarantine status of materials subject to quarantine shall be performed by the authorized state body for ensuring the plant quarantine.

#### **Article 16. Providing of Paid Services**

The authorized state body for ensuring the plant quarantine shall have the right to provide all interested parties with paid services related to laboratory analysis, testing and other examinations of materials subject to quarantine, phytosanitary certification, fumigation, issuing of quarantine permits for import and phytosanitary certificates, and performing other activities to ensure the quarantine of plants, and to use the proceeds in compliance with the applicable legislation.

#### **Article 17. Responsibilities of Organizations, Entrepreneurs and Individuals for Ensuring the Quarantine of Plants**

Organizations, individual entrepreneurs involved in the production, procurement, import into the territory of The Republic of Tajikistan, or the export from the territory of The Republic of Tajikistan, the transportation, storage, processing, use, and marketing of materials subject to quarantine must:

- Observe the rules and standards for ensure the quarantine of plants when producing, procuring, importing into the territory of The Republic of Tajikistan, exporting from the territory of The Republic of Tajikistan, transporting, storing, processing, using, and marketing of materials subject to quarantine;
- Promptly inform the authorized state body for ensuring the plant quarantine of the arrival of any materials subject to quarantine;
- Not allow the opening of means of transport and containers, with materials subject to quarantine upon arrival in the territory of The Republic of Tajikistan, without the written permission of the authorized state body for ensuring the plant quarantine;
- Create the conditions required for the timely execution of state phytosanitary quarantine control, including examination;

- Designate premises for the storage of materials subject to quarantine that comply with phytosanitary quarantine requirements, and provide protection for such materials;
- Not allow the cleansing of means of transport in transit, or in places not designed for such cleansing;
- Ensure the proper storage of materials subject to quarantine, before the commencement of state phytosanitary quarantine control;
- Designate the means of transport, specially equipped docks, grounds, specially equipped premises, and workers if required, for the decontamination, cleansing, and degassing of the materials subject to quarantine;
- Promptly inform the authorized state body for ensuring the plant quarantine upon exposure to the materials subject to quarantine to any quarantine harmful organisms;
- Transport materials subject to quarantine under conditions that exclude their loss and the possible contamination of the territory of The Republic of Tajikistan. by quarantine harmful organisms;
- Meet other requirements, in conformity with the legislation of The Republic of Tajikistan and the rules and standards for ensuring the quarantine of plants.

Any action related to detection of quarantine harmful organisms and to combat the effects of such detection, the restriction and the eradication of their origin, shall be taken at the expense of the owners and users of the materials subject to quarantine.

Decontamination, degassing, detention, destruction, and return of the materials subject to quarantine shall be implemented at the expense of their owners, users, consignees, or dispatching entities.

#### CHAPTER 4. INTERNATIONAL COOPERATION REGARDING THE QUARANTINE OF PLANTS

##### **Article 18.** Principles of International Cooperation Regarding the Quarantine of Plants

The Republic of Tajikistan is involved in international cooperation related to the quarantine of plants, guided by the principles of mutual security pertaining to the import and distribution of quarantine harmful organisms.

##### *Article 18<sup>1</sup>. Phytosanitary Quarantine Measures in the Absence of International Standards, Guidelines and Recommendations*

*If there are no international standards, guiding principles and recommendations or if phytosanitary measures do not meet the international standards, instructions and recommendations, or if such measure may have a substantial impact on trade, then the authorized body shall:*

- *Publish a notification of intention to apply a measure at the initial stage of its preparation;*
- *Inform the interested parties, in accordance with applicable international agreements, about materials subject to plant quarantine, which are subject to such measure and submit rationale for taking the proposed measure;*
- *Upon request of competent bodies of other countries, in accordance with applicable international agreements, submit the language of normative-legal act introducing the*

*proposed measure with an indication of differences with international standards, instructions and recommendation;*

- *Set a deadline for submission of opinions and carry out consultations upon request of interested parties;*

*Notification on materials subject to plant quarantine to which such measure will apply with the rationale for its application shall be submitted at least 75 days prior to beginning of its application.*

**Article 19.** Activities of Foreign Organizations and Citizens Regarding the Plant Quarantine in the territory of the Republic of Tajikistan

The activities of international organizations, citizens and individuals without citizenship related to the quarantine of plants in the territory of The Republic of Tajikistan, shall be carried out in accordance with the legislation of The Republic of Tajikistan, international treaties related to the quarantine of plants recognized by The Republic of Tajikistan.

#### CHAPTER 5. THE FINAL PROVISIONS

**Article 20.** The Manner of Settlement of Disputes Related Ensuring the Plant Quarantine

Disputes related to ensuring the quarantine of plants shall be considered by the court.

**Article 21.** The liability of infringement of the present Law

For any violations of the this Law natural persons and legal entities shall be culpable in accordance with the Legislation of The Republic of Tajikistan.

**Article 22.** Repealing the Law Republic of Tajikistan “On the Quarantine of Plants”.

The Law of The Republic of Tajikistan “On the Quarantine of Plants” of 12 May 2001 (Report of Majlisi Oli of The Republic of Tajikistan, 2001, No. 4, Article 206).

**Article 23.** Entering into Force of this Law.

This Law shall enter into force subsequent to its official publication.

President of the Republic of Tajikistan

Emomali Rahmon

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