

The Law of Ukraine

On Plant Quarantine

As amended by Laws of Ukraine

N 367/97-VR of June 18, 1997

N 783-XIV of June 30, 1999

(On August 1, 2003 the present Law will be amended according to the Law of Ukraine N 662-IV of April 3, 2003)

(On January 1, 2004, the present Law will be amended according to the Law of Ukraine N 674-IV of April 3, 2003)

This Law determines the general legal, organizational, financial and economic basis of plant quarantine, activities of the state bodies, enterprises, institutions, organizations, officials and citizens aimed at preventing the entry and spreading of dangerous pests, plant diseases and weeds which are not present in the territory of Ukraine.

CHAPTER I GENERAL PROVISIONS

Article 1. Definition of Terms

The terms set out below in this Law are used in the following meaning:

plant quarantine – a legal regime which provides for the system of government measures aimed at the protection of plants, products of their processing, raw materials, individual shipments, etc. from the quarantine objects;

special quarantine regime – a special legal regime of activities of the state bodies, bodies of local and regional self-government, enterprises, institutions and organizations aimed at the localization and liquidation of the seats of quarantine objects which allows the temporary introduction of restrictions provided for by this Law on the citizens' rights and rights of legal entities, and assigns additional obligations upon them;

quarantine object – pests, agents of a plant disease or a weed that is not present or is present in limited quantities on the territory of Ukraine, but which may pose a significant threat to the plants or vegetable products.

The Ministry of Agriculture and Food of Ukraine shall determine a list of quarantine objects.

Materials and objects subject to quarantine – any materials and objects that may cause or facilitate the spread of quarantine objects.

A list of materials and objects subject to quarantine shall be determined by the Statute of Plant Quarantine in Ukraine to be approved by the Cabinet of Ministers of Ukraine.

Quarantine zone – a territory where the special quarantine regime is established due to the revealed quarantine objects.

Article 2. Basic Goals of Plant Quarantine

The basic goals of plant quarantine are:

protection of the country's territory from bringing in or independent entry of quarantine objects from abroad or from the quarantine zone;

timely disclosure, localization and liquidation of quarantine objects, as well as the prevention of their spread to those regions of the country that are free from them;

implementation of the state control over observance of the special quarantine regime and implementation of the plant quarantine measures during the process of cultivating, procurement, exporting, importing, transporting, storing, processing and utilizing the materials and objects subject to quarantine.

Article 3. Legislation on Plant Quarantine

The legislation on plant quarantine shall be based on the Constitution of Ukraine and shall embody the present Law and other legislative acts adopted in accordance with this Law.

CHAPTER II STATE REGULATION OF PLANT QUARANTINE

Article 4. Bodies Exercising State Regulation of Plant Quarantine

State regulation of plant quarantine shall be carried out by the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada and the Council of Ministers of the Republic of Crimea, and by the specially authorized state bodies on plant quarantine, other state bodies and bodies of local and regional self-government in the order established by the legislation.

Article 5. Specially Authorized Bodies on Plant Quarantine

The central specially authorized state body on plant quarantine is the Chief State Inspection on Plant Quarantine of Ukraine with the Central Research and Development Quarantine Laboratory and the Central Fumigation Detachment of the Ministry of Agriculture and Food of Ukraine.

Other special bodies of plant quarantine that are subordinate to the Chief State Inspection on Plant Quarantine of Ukraine is the state inspection on plant quarantine of the Republic of Crimea, border oblasts inspection, or oblast and city inspections on plant quarantine, plant quarantine stations in the sea and river ports (in docks), on the railway stations and in airports (at airfields), at post offices, on highways (at bus stations, bus terminals), at border posts on the state border of Ukraine, laboratories and regional fumigation detachments.

The plant quarantine stations may be established, where necessary, at other objects, the activities of which are related to the procurement, exporting, importing, transportation and utilization of materials and objects subject to quarantine.

The organizational structure and the number of employees of the state service on plant quarantine shall be approved by the Ministry of Agriculture and Food of Ukraine upon presentation of the Chief State Inspection on Plant Quarantine of Ukraine.

Article 6. Competence of the Chief State Inspection on Plant Quarantine of Ukraine

The competence of the Chief State Inspection on Plant Quarantine shall be as follows:

- 1) directing the activity of the Central Research and Development Quarantine Laboratory and the Central Fumigation Detachment, the border state inspection on plant quarantine of the Republic of Crimea, the border oblast, oblast and city state inspections on plant quarantine;
- 2) establishing the procedure for bringing in and utilization of seed, plants and products of plant origin from abroad, their transportation within the territory of Ukraine and beyond its borders in coordination with the quarantine services of the countries with which Ukraine has concluded the treaties, on the basis of a convention or an agreement on cooperation between the states;
- 3) researching the varieties, biology and ecology of the quarantine object and other dangerous pests, the diseases of plants and weeds that are not present in the country's territory, developing forecasts of their spreading in order to prevent their entry to those regions where they may cause damage;
- 4) issuing relevant instructions, regulations, rules, orders and other normative documents on plant quarantine;
- 5) keeping records and informing on the spread of the quarantine objects;
- 6) conducting an expertise of the materials and objects subject to quarantine;
- 7) issuing quarantine documents for the import of seed, plants and products of plant origin;
- 8) submitting proposals to the Cabinet of Ministers of Ukraine regarding the introduction of the special quarantine regime;

9) coordinating together with the Ministry of Agriculture and Food of Ukraine and the Ukrainian Academy of Agrarian Sciences, the research and development activities on plant quarantine;

10) exercising control over compliance with the legislation on plant quarantine, including the process of signing agreements (contracts) on delivery of products of plant origin from abroad;

11) publicizing knowledge on plant quarantine;

12) state control over the implementation of quarantine measures by enterprises, institutions, organizations and citizens.

The State Service on Plant Quarantine shall carry out its activities together with the Security Service of Ukraine, the Ministry of Interior of Ukraine, the State Committee on Guarding the National Border of Ukraine, the State Customs Committee of Ukraine, the local bodies of the state executive power, other state bodies, bodies of local and regional self-government.

Enterprises, institutions, organizations and citizens should assist the state inspectors on plant quarantine in their performance of the duties assigned to them.

The rules of phytosanitary control, issued by the Chief State Inspection on Plant Quarantine of Ukraine within its competence, shall be binding on all state bodies, as well as enterprises, institutions and organizations, officials and citizens.

Article 7. Competence of the Border State Inspection on Plant Quarantine of the Republic of Crimea, Border Oblast Inspections and the Oblast and City Inspections on Plant Quarantine

The border state inspection on plant quarantine of the Republic of Crimea, border oblast inspections and the oblast and city inspections on plant quarantine shall, within their competence:

1) issue certificates for seed, plants and products of plant origin that are exported or withdrawn from the zones with the special quarantine regime;

2) conduct the quarantine checks and laboratory expertise of materials and objects subject to quarantine delivered from abroad (including those delivered in baggage, postal correspondence and passenger hand luggage) ;

3) organize the treatment and disinfections of materials, objects and vehicles subject to quarantine that are delivered from abroad;

4) the state control over the implementation of quarantine measures by enterprises, institutions, organizations and citizens;

5) organize the systematic and control examinations of agricultural lands and forests, places of storage and processing of the seed, plants and products of plant origin, of delivery points to which materials and objects subject to quarantine are delivered, as well as of the adjacent territory;

6) control over the activities of the introductory quarantine nurseries, the state-owned strain-testing stations, hothouses and greenhouses, where quarantine testing of seed, plants and cultivated materials delivered from abroad is provided;

7) exercise the state control on production, procurement, transportation, storage, processing, utilization and sales of seed, plants and products of plant origin that are exported or imported;

8) take, according to the legislation, urgent measures in order to localize and liquidate the quarantine objects, and prevent their spreading;

9) control over the implementation of quarantine measures according to the international agreements and conventions;

10) publicizing knowledge on plant quarantine;

11) submit to relevant bodies proposals regarding the introduction (lifting) of the special quarantine regime;

12) attract to their activities the public representatives on plant quarantine from the employees of procurement, transportation, processing, and other enterprises, institutions and organizations.

Article 8. Procedure on Introduction of the Special Quarantine Regime

In case of revealing the quarantine objects the Chief State Inspector of plant quarantine of Ukraine and other state inspectors on plant quarantine shall submit within 24 hours a draft proposal on the introduction of the special quarantine regime, to the relevant body of local or regional self-government, body of the state executive power or to the Cabinet of Ministers of Ukraine.

The territory of the special quarantine regime shall be established by the relevant body of local or regional self-government, the local body of the state executive power within the boundaries of the populated area, district, several districts or oblast, and if it falls within the boundaries of several oblasts, it should be established by the Cabinet of Ministers of Ukraine.

The body that has made a decision on introducing or lifting the special quarantine regime must immediately inform the enterprises, institutions and organizations located on that territory and citizens living on that territory.

A decision, by which a special quarantine regime is established, shall indicate:

circumstances that caused the introduction of the special quarantine regime;

boundaries of the territory subject to the special quarantine regime;

time on which the special quarantine regime is introduced;

list of quarantine restrictions, measures on localization and liquidation of the quarantine objects.

Article 9. Measures that are Implemented in the Territory with the Special Quarantine Regime

The following measures may be implemented on the territory with the special quarantine regime:

restrictions on the exit of the vehicles and their inspection;

utilization of the resources of enterprises, institutions and organizations for localization and liquidation of the quarantine objects with the further compensation for damages;

prohibition of the removal of relevant materials subject to quarantine;

disinfections of the materials and objects subject to quarantine;

technical processing or disposal of the materials subject to quarantine.

Compensation for damages caused as a result of unlawful actions taken by the state bodies and officials that are ensuring the implementation of the quarantine measures, shall be made in accordance with the legislation.

Article 10. The Authority of the Oblast, District Radas of People's Deputies, the City Radas of People's Deputies and Their Executive Committees, Local Bodies of the Executive Power in the Field of Plant Quarantine

The oblast, district Radas of People's Deputies, the city Radas of People's Deputies and their executive committees, local bodies of the executive power shall organize and provide control over implementation of the quarantine measures and, together with the owners or the authorized bodies of the sea and river ports (docks), railway stations, airports (airfields), post offices, bus stations (bus terminals), the officials of the customs-houses and the state border posts, shall create appropriate conditions for the state inspectors on plant quarantine for due performance of their official duties.

Upon submission of the chief state inspectors on plant quarantine or the state inspectors on plant quarantine, these bodies may introduce a special quarantine regime, which can be lifted upon submission of a proposal by the chief state inspectors.

Article 11. Phytosanitary Control

All materials and objects subject to quarantine that cross the state border of Ukraine and the borders of the special quarantine zones shall be subject to phytosanitary control.

Import of materials subject to quarantine into Ukraine shall be allowed if the following documents are available:

a phytosanitary certificate issued by the state bodies on quarantine and protection of plants of the exporting country;
quarantine import permit issued by the Chief State Inspection on Plant Quarantine of Ukraine.

Customs clearance of cargoes shall be conducted only after the phytosanitary control.

A sample of the phytosanitary certificate and the procedure of its issuance shall be determined by the Chief State Inspection on Plant Quarantine of Ukraine in compliance with the existing international conventions.

The sample of the quarantine import permit and the procedure for its issuance shall be determined by the Chief State Inspection on Plant Quarantine of Ukraine.

Materials subject to quarantine may be exited from the special quarantine zone provided they have a quarantine certificate.

The sample of the quarantine certificate and the procedure of its issuance shall be determined by the Chief State Inspection on Plant Quarantine of Ukraine.

The phytosanitary rules on delivery from abroad, transportation within the country, export and the order of processing of the materials subject to quarantine shall be determined by the Chief State Inspection on Plant Quarantine of Ukraine.

Article 12. Officials Implementing the State Control on Plant Quarantine

Organization and implementation of the state control over plant quarantine of plants is laid upon the chief state inspectors on plant quarantine, their deputies and the state inspectors on plant quarantine.

The Chief State Inspector on Plant Quarantine of Ukraine is the head of the Chief State Inspection on Plant Quarantine of Ukraine, appointed to or dismissed from the position by the Ministry of Agriculture and Food of Ukraine.

The chief state inspector on plant quarantine of the Republic of the Crimea, oblast and the city of Kyiv is the head of the relevant body on plant quarantine appointed to and dismissed from by the Chief State Inspector on plant quarantine of Ukraine.

The chief, leading specialists and the specialists of all categories of border oblast, oblast, city inspections on plant quarantine, the heads of the border posts on plant quarantine in the sea, river ports (in docks), on the respective railway stations, in airports, at the central post-offices or highways are, by their offices, at the same time the state inspectors on plant quarantine of the relevant territory or a post.

Article 13. Obligations and Rights of the Chief State Inspector on Plant Quarantine of Ukraine, the Republic of Crimea, Oblast and the City of Kyiv

1. The Chief State Inspector on plant quarantine of Ukraine, the Republic of Crimea, oblast and the city of Kyiv shall administer the plant quarantine service, exercise the state control and are responsible for the implementation of quarantine measures on the territory of Ukraine, the Republic of Crimea, oblast and the city of Kyiv, respectively.

When exercising the quarantine control the Chief State Inspector on plant quarantine of Ukraine, the Republic of Crimea, oblast and the city of Kyiv, the state inspectors shall have the right to:

detain the materials and objects subject to quarantine that were removed from the territories where the special quarantine regime is introduced without the quarantine certificates, or those imported from abroad without a quarantine permission, for the period of phytosanitary expertise;

freely visit the respective objects within the service zone, request information necessary for exercising their authorities;

provide the sampling of seed, plants, products of plant origin and other materials to carry out a laboratory expertise in compliance with the legislation;

impose administrative sanctions on the persons guilty of violating the legislation on plant quarantine;

be supplied with tickets for any type of public municipal and local transport purchased by budget institutions in accordance with the procedure established by the Cabinet of Ministers of Ukraine;

(paragraph seven of part one of Article 13 as amended according to the Law of Ukraine N 367/97-VR of June 18, 1997)

wear an established type of the uniform.

The samples of uniforms outfit, their lifetime and the supply procedure shall be determined by the Cabinet of Ministers of Ukraine.

2. The Chief State Inspector on Plant Quarantine of Ukraine, the Republic of Crimea, oblast, city/town and state inspector on plant quarantine in case of revealing the quarantine objects on the territory of Ukraine shall submit, within 24 hours, a proposal on the introduction of the special quarantine regime and shall have the right:

to issue binding instructions on implementations of quarantine measures;

to detain the transportation vehicles that can facilitate the spread of the quarantine objects;

to disinfect the materials and objects subject to quarantine;

to confiscate, liquidate or send the materials subject to quarantine for technical processing;

to issue relevant conclusions for the insurance bodies.

Article 14. The Guarantees of the Activities of Persons Exercising the State Control on Plant Quarantine

The Chief State Inspector on Plant Quarantine of Ukraine, the Republic of Crimea, oblast and the city, the state inspectors on plant quarantine are independent in performing their activities and shall be guided by this Law, the Statute of Quarantine Service and by other acts of legislation on plant quarantine.

The decisions of the state inspector that are adopted within their terms of reference regarding the prohibition of cultivating, exporting, importing, storing or utilizing the material subject to quarantine shall be binding.

Upon approval of the Chief State Inspector on Plant Quarantine of Ukraine, the Republic of Crimea, oblast and city/town the authorities of the state inspectors on plant quarantine may be partially delegated to the staff employees of procurement, transport, processing and other enterprises, institutions and organizations, and the citizens being public representatives authorized to activities in plant quarantine in compliance with the Provision on Public Representatives

Article 15. Obligations of Enterprises, Institutions, Organizations, Officials and Citizens on Ensuring the Plant Quarantine

Enterprises, institutions, organizations, officials and citizens the activity of which is related to the production, processing, storing, transportation and trade in materials subject to quarantine should:

comply with the phytosanitary rules;

assist, within their competence, the state service on plant quarantine, execute the directives of the state service on plant quarantine with regard to the implementation of the relevant quarantine measures;

submit upon the request of the state service specialists on plant quarantine the information on the presence of materials and objects subject to quarantine;

provide, in order to reveal the quarantine objects, a systematic monitoring of crops, storage facilities where materials subject to quarantine are stored and also submit for inspection and expertise the available materials subject to quarantine;

in case of revealing the quarantine objects immediately inform the state service on plant quarantine, facilitate implementation of the quarantine measures in the special quarantine and adjacent zones;

when purchasing abroad the large consignments of seed, plants and products of plant origin, delegate, on their own account, the state inspectors on plant quarantine to exercise phytosanitary control in the places where materials subject to quarantine are shipped in Ukraine.

The relevant state bodies, enterprises, institutions, organizations, officials and citizens the activity of which is related to the production, processing, storage, transportation and trade in materials subject to quarantine should provide free of charge the office buildings, necessary equipment, means of communication, and reimburse the expenses on their maintenance and rental fee to the bodies and institutions of the state service on plant quarantine (including those on motor, railway, water and air transport, border posts on plant quarantine, customs offices and the state border posts, plant quarantine points on the markets, post offices, etc.).

Article 16. Liability for Violation of Quarantine Requirements

Citizens and officials guilty of violating the legislation on plant quarantine shall be called to account in accordance with the legislation of Ukraine.

Entrepreneurs guilty of violating the quarantine requirements as to the exit from the quarantine zones or entry from abroad of the materials subject to quarantine shall be fined in accordance with the court procedure upon petition of the chief state inspectors on plant quarantine

CHAPTER III FINAL PROVISIONS

Article 17. Professional Requirements to the Specialists in the Field of Plant Quarantine

The citizens of Ukraine who have higher or secondary special education may carry out professional activity in the field of plant quarantine.

The specialists in the field of plant quarantine shall work under a labor agreement (contract).

Professional training of the specialists in the field of plant quarantine with further attestation shall be funded from the state budget once per five years.

The procedure of the specialists' in plant quarantine attestation shall be determined by the Chief State Inspector on Plant Quarantine of Ukraine.

The specialists in the field of plant quarantine who have violated their official duties shall be liable in accordance with the legislation of Ukraine.

Article 18. Scientific Support for the State Service on Plant Quarantine

Scientific support for the state service on plant quarantine shall be provided by the Ministry of Agriculture and Food of Ukraine and the Ukrainian Academy of Agrarian Sciences through the network of profile research and development institutes and stations.

Article 19. Phytosanitary Expertise

For the purposes of revealing the quarantine objects in materials and objects subject to quarantine the quarantine laboratories shall conduct the phytosanitary expertise.

Phytosanitary expertise can be carried out repeatedly according to the requirement of concerned person and for the account of this person.

Article 20. Financing of Quarantine Measures

The measures on preventing the spread, localization and liquidation of the quarantine objects, and the control observations of agricultural lands shall be financed from the state budget.

Article 21. Financing and Logistics of the Bodies of State Service on Plant Quarantine

Financing and logistics of the bodies of state service on plant quarantine shall be provided from the state budget and non-budgetary funds.

Scientific support for plant quarantine shall be financed by the Ukrainian Academy of Agrarian Sciences and the Ministry of Agriculture and Food of Ukraine.

Part three of Article 21 is void.

(according to the Law of Ukraine
N 783-XIV of June 30, 1999)

Article 22. International Agreements

If the international agreements to which Ukraine is a party establishes the rules other than those provided for by this Law, the rules of that international agreement shall be applied.

President of Ukraine

L. KRAVCHUK

**Kyiv
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