

## ■ IMPORT PLANT QUARANTINE

○ Relevant legislations

### **Main provisions in Korea's Plant Protection Act.**

#### **ARTICLE 1. PURPOSE**

The purpose of this Act is to contribute to the safety and promotion of agriculture and forestry production and to protect natural environment by prescribing the necessary matters pertaining to the quarantine of import and export plants, and domestic plants and to control pests and diseases inflicting harms on plants.

#### **ARTICLE 8. PHYTOSANITARY CERTIFICATE**

Any person intending to import plants or associated container and packaging for the plants should accompany a phytosanitary certificate which conforms to the phytosanitary certificate form as prescribed by International Plant Protection Convention and issued by a government authority of the exporting country. Nevertheless, this shall not be applicable to cases that fall under the following subparagraph:

1. in case of importing from a country that has no government authority responsible for plant quarantine;
2. in case of importing through hand luggage or mail; or
3. in other cases where it is difficult to accompany a phytosanitary certificate, of which are stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and

Fisheries.

## **ARTICLE 10. PROHIBITION OF IMPORT**

1. Any items which fall under any of the following subparagraphs shall not be imported:
  - (1) Plants which are produced or sent from areas where pests as a result of pest risk analysis under Article 6, known to inflict serious damages on domestic plants upon introduction, or which have visited such areas (except for simple transit as prescribed by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries), and of which are specified in the Ordinance of the Ministry of Agriculture;
  - (2) Pests. - Except for those, as a result of pest risk analysis, approved by the Minister for Food, Agriculture, Forestry, and Fisheries of Korea to cause no economic damages on plants in Korea;
  - (3) Soil or plants attached with soil; and
  - (4) Containers or packaging of the items specified in the above subparagraphs from 1 through 3.
2. Notwithstanding the paragraph 1, prohibited items which fall under any of the following subparagraphs may be imported:
  - (1) In case a permission has been obtained from the Minister for Food, Agriculture, Forestry, and Fisheries of Korea by meeting the requirements prescribed by the Presidential Decree for the purpose of offering to a research or to an international exhibition approved by the Government;
  - (2) In case risk management options against pests that live in plants under paragraph 1 (1), are submitted by an exporting country, whereby its validity has been approved, and as a result of the pest risk analysis on the validity, it is approved cause no

damages to domestic plants; and

- (3) In case plants are imported in order to secure the agricultural genetic resources in accordance with Act on the Preservation, Management and Utilization of Agricultural Genetic Resources.

3. The Minister for Food, Agriculture, Forestry, and Fisheries of Korea may attach necessary conditions such as importation method, management method after importation and other matters needed to import prohibited items under paragraph 2 of this Article.

## **ARTICLE 12. INSPECTION OF ITEMS SUBJECT TO PLANT QUARANTINE**

1. Any person importing items subject to plant quarantine inspection must without hesitation declare to the head of an agency responsible for plant quarantine inspection established in the Ministry for Food, Agriculture, Forestry and Fisheries of Korea (hereinafter referred to as “Plant Quarantine Inspection Agency”) and undergo inspection by a plant quarantine inspector. Nevertheless, this shall not be applicable, provided, that the inspection is carried out pursuant to paragraphs 2, 4 and 6.

2. The plant quarantine inspector may, if he or she suspects that a quarantine pest is present in an import item subject to plant quarantine inspection or believes that there is a concern for spread of the pest, enter the ship, vehicle or aircraft before the clearance inspect the item subject to plant quarantine inspection.

3. The head of postal service responsible for the execution of customs clearance procedure shall, upon receiving a postal package containing items subject to plant quarantine inspection

or suspected of containing items subject to plant quarantine inspection, report immediately to the Head of Plant Quarantine Inspection Agency.

4. The plant quarantine inspector shall inspect the concerned postal package upon receiving such report from the head of postal service under paragraph (3).

5. Any person receiving a postal package which contains items subject to plant quarantine inspection but did not undergo inspection, shall without hesitation report to the Head of Plant Quarantine Inspection Agency and undergo an inspection by a plant quarantine inspector.

6. A plant quarantine inspector can inspect wood packaging materials of import consignment as prescribed by the Minister for Food, Agriculture, Forestry and Fisheries for the presence of regulated pests or potential regulated pests, or for the compliance with import requirements.

### **ARTICLE 13. POST-ENTRY QUARANTINE**

1. A plant quarantine inspector shall, in case it is deemed difficult, as a result of inspection carried out pursuant to Article 12, to confirm the presence of regulated pests in seeds for planting or for propagation including seeds, seedlings and bulbs, as prescribed by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries (hereinafter referred to as “Seeds”), order the owner or the agent to carry out post-entry quarantine and undergo inspection in the growing field, or may carry out post-entry quarantine inspection of all or some of the seeds at the Plant Quarantine Inspection Agency.

2. Necessary matters pertaining to the inspection method and procedure of post-entry quarantine under Paragraph 1 shall be established by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries.

## **ARTICLE 16. ACTIONS BASED ON THE INSPECTION RESULTS**

1. A plant quarantine inspector shall order the owner or the agent to destroy, re-ship or to take necessary actions on plants subject to plant quarantine inspection which fall under any of the following subparagraphs:

- (1) Plants imported without accompanying a phytosanitary certificate under Article 8;
- (2) Plants subject to plant quarantine inspection which were imported, in violation of Article 9, through a port other than the port of entry;
- (3) Prohibited items imported in violation of paragraph 1 of Article 10. Nevertheless, items imported in accordance with paragraph 2 of Article 10 shall be excluded;
- (4) Prohibited items which violated importation method, management method after importation other necessary conditions under paragraph 3 of Article 10;
- (5) Plants imported in violation of import restriction under paragraph 1 or 3 of Article 11;
- (6) Items subject to plant quarantine inspection which were imported without undergoing inspection under paragraph 1 of Article 12, or undergoing inspection using false or other unlawful means; and
- (7) Items subject to plant quarantine inspection which failed to undergo inspection under paragraph 1 of Article 12 or which were using false or other unlawful means.

2. A plant quarantine inspector may, with regard to a seed which is in violation of post-entry quarantine order under Article 13, give the owner or the agent an order to destroy or

take other necessary actions. Nevertheless, in such cases as prescribed by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries including destruction of post-entry quarantine facilities by the natural disaster, this may not be applicable.

3. A plant quarantine inspector may order the owner or agent to disinfect, destroy or take other necessary measures in case regulated pests or potential regulated pests are detected as a result of inspection pursuant to paragraphs 1, 2, 4, 5 or 6 of Article 12, or Article 13.

4. Notwithstanding the provisions in paragraphs 1 through 3, a plant quarantine inspector may disinfect or destroy items subject to plant quarantine inspection in case it falls under any of the following subparagraphs:

(1) In case of an item that falls under any of the following, which is deemed as effective for a plant quarantine inspector to handle it directly and obtained consent of the owner or agent;

A. an item subject to plant quarantine inspection which is imported by post or hand luggage; and

B. an item subject to plant quarantine inspection which is imported in small amount

(2) In case the owner or agent who has been given orders in accordance with provisions in paragraphs 1 through 3, fails to implement the order until the specified time period stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries; and

(3) In case the owner or agent is not specified or his/her location is unknown and thus, the order under Paragraph 1 through 3 cannot be implemented.

5. In case a plant quarantine inspector disinfects or destroys the item subject to plant

quarantine inspection in accordance with paragraph 4, the inspector may charge the owner or agent the necessary cost.

6. Matters necessary for charging the cost of disinfection or destruction under paragraphs 4 and 5 shall be stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries.

#### **ARTICLE 28. INSPECTION OF EXPORT PLANTS**

Any person exporting plants must undergo inspection by a plant quarantine inspector on whether the plants meet the requirements of an importing country, and if rejected, the person cannot export the plants. However, this may not be applicable to plants whose phytosanitary certificate is not required by an importing country.

#### **ARTICLE 47. PENALTIES**

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than 3 years or a fine of no more than 20 million won:

- (1) The person who violates orders under paragraph 2 of Article 4 including disinfection, destruction and other necessary actions;
- (2) The person who imports plants without accompanying a phytosanitary certificate in violation of Article 8;
- (3) The person who imports an item subject to plant quarantine inspection through a site other than the port of entry in violation of Article 9;
- (4) The person who imports prohibited items in violation of paragraph 1 of Article 10

(except for those who imports according to paragraph 2 of Article 10);

- (5) The person who imports plants in violation of import restriction under Article 11;
- (6) The person who files a false declaration under paragraph 1 of Article 12; or who imports items subject to plant quarantine inspection without undergoing inspection or undergoes inspection using false or other unlawful means (except for those who imports as a hand luggage);
- (7) The person who violates orders for disinfection, destruction, return or other necessary actions under paragraph 1 through 3 of Article 16;
- (8) The person who transports plants from overseas or prohibited items without obtaining a permit for transit in violation of paragraph 2 of Article 20;
- (9) The person who fails to report a problem occurred in relation to safety measures in violation of Article 22;
- (10) The person who releases items for transit in Korea in violation of Article 24;
- (11) The person who violates the order of disinfection, destruction, return, removal or other necessary actions under paragraph 1 of Article 27.

#### **ARTICLE 48. PENALTIES**

The person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than 1 year or a fine of no more than 10 million won:

- (1) The person who refuses, disrupts or evades inspections under paragraph 1 of Article 4;
- (2) The person who refuses, disrupts, or evades entrance of venues such as land or collection of materials for under paragraph 3 of Article 4;
- (3) The person who violates conditions such as importation method, management



method after importation and other necessary matters imposed on items permitted for import under paragraph 3 or Article 10;

- (4) The person who refuses, disrupts or evades measures for treatment or destruction by a plant quarantine inspector under paragraph 4 of Article 16;
- (5) The person who refuses, disrupts or evades emergency pest control measures under paragraph 2 of Article 23;
- (6) The person who refuses, disrupts or evades inspection by a plant quarantine inspector under Article 26;
- (7) The person who refuses, disrupts or evades measures for treatment or destruction by a plant quarantine inspector under paragraph 2 of Article 27;
- (8) The person who exports without passing the inspection or who exports using false or other unlawful means under Article 28; and
- (9) The person who operates a company without registering for the import and export woods heat treatment business under Article 40.

#### **ARTICLE 50. FINE FOR NEGLIGENCE**

1. The person who falls under any of the following subparagraphs shall be liable to a fine for negligence not exceeding 10 million won:

- (1) The person who gives false testimony to questions under Paragraph 3 of Article 4;
- (2) The person who conveys or stores items subject to plant quarantine inspection in violation of standards stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries;
- (3) The person who files a false declaration under paragraph 1 of Article 12; or who imports without undergoing inspection or undergoes inspection using false or other

unlawful means of plants subject to plant quarantine inspection which are imported by hand luggage ;

- (4) The person who delays declaration under paragraph 1 of Article 12;
- (5) The person who fails to undergo inspection under paragraph 5 of Article 12 or who undergoes inspection using false or other unlawful means;
- (6) The person who violates the order for post-entry quarantine of seeds under Article 13;
- (7) The person who, in violation of Article 25, fails to declare the arrival of consignments in transit;
- (8) The person who refuses, disrupts or evades quarantine inspection under Article 30, or violates orders necessary for implementation such as order for disinfection or destruction, or movement restriction; and
- (9) The person who violates order for pest control under paragraph 1 of Article 36.

2. A fine under paragraph 1 shall be imposed and collected by the Minister for Food, Agriculture, Forestry and Fisheries or mayors or governors (hereinafter referred to as “Imposing authority”) as prescribed by the Presidential Decree.

3. The person who is dissatisfied with the disposition of a fine under paragraph 2 may raise an objection to the imposing authority within 30 days after receiving the notification of the penalty.

4. Where a person who is subject to the disposition of a fine for negligence under paragraph 2 raises an objection under paragraph 3, the imposing authority shall forthwith notify this to a competent court and the court shall, upon receipt of the notification, bring the case to a trial

of a fine for negligence in accordance with Non-Contentious Case Litigation Procedure Act.

5. Where no objection is raised and no fine for negligence is paid within the period prescribed under paragraph 3, the fine for negligence shall be collected according to the disposition of delinquency of national tax or local tax.

### **Main provision of Enforcement Decree of Plant Protection Act**

#### **ARTICLE 7. STANDARDS FOR THE IMPOSITION OF A FINE FOR NEGLIGENCE**

The standards for the imposition of a fine for negligence under paragraph 1 of Article 50 of Plant Protection Act shall be prescribed in the attached Table

#### **STANDARDS FOR THE IMPOSITION OF A FINE FOR NEGLIGENCE (in relation to Article 7)**

##### 1. General standards

A. The standards for the imposition of a fine for negligence based on the number of violations shall be applicable to cases where fines were imposed on the same act of violation within the past 1 year from the date of violation.

B. When imposing a fine, the Minister for Food, Agriculture, Forestry and Fisheries or mayors or *Do* governors may, in consideration of motive, act and frequency, increase or reduce the amount of the fine for negligence within the 50% range of the amount of the fine under subparagraph 2. Nevertheless, when increasing the amount, the total amount of the

fine for negligence cannot exceed the ceiling of fines for negligence under paragraph 1 of Article 50 of the Act.

2. Individual standards (unit: million won)

Violation	Applicable provisions	Amount of a fine		
		once	twice	More than 3 times
A. a person who gives a false testimony to questions under paragraph 3 of Article 4 of the Act	paragraph 1 (1) of Article 50 of the Act	1		
B. a person who is conveying or storing plants subject to quarantine inspection, in violation of standards stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries	paragraph 1 (2) of Article 50 of the Act			
(1) a person who violates the standards during the conveyance of plants subject to quarantine inspection in the process of importation		0.1	0.5	1
(2) a person who violates the standards during the conveyance of plants subject to quarantine inspection in the process of transit in Korea		1	3	5
(3) a person who violates the standards during the storage of plants subject to quarantine		0.5	1	3

inspection in the process of importation				
(4) a person who violates the standards during the storage of plants subject to quarantine inspection in the process of transit in Korea		1	3	5
C. a person who files a false report prescribed under paragraph 1 of Article 12 of the Act on plants subject to quarantine inspection which are imported as a hand luggage, or who imports without undergoing inspection or undergoes inspection falsely or other unlawful means	paragraph 1 (3) of Article 50 of the Act	0.1	1	5
D. a person who delays report as prescribe by paragraph 1 of Article 12 of the Act	paragraph 1 (4) of Article 50 of the Act	1	2	5
E. a person who fails to undergo inspection as prescribe by paragraph 5 of Article 12 of the Act	paragraph 1 (5) of Article 50 of the Act	0.1	0.5	1
F. a person who violates the order for post-entry quarantine or seeds as prescribed by Article 13 of the Act				
(1) a person who fails to transport seeds subject to post-entry quarantine, without reasonable ground, to post-entry quarantine sites (including storage sites) until the given date	paragraph 1 (6) of Article 50 of the Act		1	
(2) a person who fails to implement proper			5	

instructions by a plant quarantine inspector pertaining to post-entry quarantine orders including improvement of post-entry quarantine facilities		
(3) a person who moved seeds subject to post-entry quarantine to a sites other than designated post-entry quarantine sites before the completion of inspection		10
G. a person who fails to declare the arrival of plants in transit in violation of Article 25 of the Act	paragraph 1 (7) of Article 50 of the Act	5
H. a person who refuses, obstructs, or evades quarantine inspection as prescribed by Article 30 of the Act, or who violates the orders such as disinfection or destruction, or necessary measures including movement restriction	paragraph 1 (8) of Article 50 of the Act	10
I. a person who violates order for pest control under paragraph 1 of Article 36 or orders by a plant quarantine inspector under Article 2 of the Act	paragraph 1 (9) of Article 50 of the Act	10

**Main provisions of Enforcement Regulations of Plant Protection Act**

**ARTICLE 3. SCOPE OF SOIL**

1. “Soil stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries” under Article 2 (3) of the Act shall refer to one of the following subparagraphs:

(1) Rocks decomposed from weathering, as well as mixtures on the earth surface where minerals are mixed

(2) Organic matters that are decomposed or corroded, and are used in the cultivation of plants

2. Notwithstanding paragraph 1, those that fall under any of the following subparagraphs shall not be considered as soil:

(1) Those used for industrial, cosmetic or medical purposes including porcelain clay, phosphate ore, diatomite and bauxite;

(2) Those that have not been used in the cultivation of plants and in which plants are not planted among matters under paragraph 1 (2); and

(3) Those recognized by Director General of NPQS, as a result of pest risk analysis carried out under Article 6 of the Act, as having no danger of being infected by pests.

**ARTICLE 10. (CASES IN WHICH NO PHYTOSANITARY CERTIFICATE IS REQUIRED)**

“Other cases in which it is difficult to accompany a phytosanitary certificate of which are stipulated by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries” in subparagraph 3 of Article 8 of the Act refer to any of the following subparagraphs:

- (1) in case of importing wood or bamboo (excepting cases of importing in accordance with paragraph 2 (2) of Article 10 of the Act and cases of importing after being restricted temporarily in accordance with paragraph 1 of Article 11 of the Act;

- (2) In case of importing prohibited items in accordance with paragraph 2 (1) and (3) of Article 10 of the Act;
- (3) In case of importing plants and containers or packaging to put or package the plants (hereinafter referred to as “plants etc.”) without foreign exchange (provided that they are not plants for planting);
- (4) In case the customs sell by public auction;
- (5) In case of processed plants using high heat dry, grinding, compression or freezing which meet the standards notified by Director General of NPQS, that are imported in an airtight packaging;
- (6) In case exported plants were rejected from the importing country and re-shipped as import.

#### **ARTICLE 19. SEEDS SUBJECT TO POST-ENTRY QUARANTINE**

1. “Seeds for planting or propagation such as seeds, seedlings and bulbs, as prescribed by the Ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries” in paragraph 1 of Article 13 of the Act refer to any of the following subparagraphs:

- (1) Flower bulbs
- (2) Potato tubers and sweet potato tuberous roots
- (3) Amongst seedlings, cuttings and scions of fruit trees, those selected and notified by Director General of NPQS
- (4) Seedlings of Alpine strawberry
- (5) Seedlings, cuttings and scions of Prunus and Rosa
- (6) Imported through import permit in accordance with paragraph 2 (1) and (3) of Article 10 of the Act or seeds among plants imported for the purpose of agricultural genetic



resources

2. Notwithstanding paragraph 1, seeds that fall under any of the following subparagraphs shall be exempted post-entry quarantine inspection:

- (1) Imported seeds that are not cultivated but exported thereof
- (2) Seeds believed to have low risk of introduction as a result of pest risk analysis under Article 6 of the Act of which are selected by Director General of NPQS
- (3) Seeds agreed with a government organization of the exporting country not to conduct are under post-entry quarantine
- (4) Seeds associated with paragraph 1 (1), (2) and (4), which have been inspected at the growing field of the plant by a government organization of the exporting country and which is listed in the phytosanitary certificate that the result of inspection meets the inspection standards notified by Director General of NPQS
- (5) Seeds among those for the purpose of agricultural genetic resource which have not been cultivated and are in store. Nevertheless, if one wishes to cultivate seeds, one must undergo post-entry quarantine inspection before cultivation

3. The kinds of post-entry quarantine methods under paragraph 1 of Article 13 of the Act are as the following subparagraph:

- (1) Field inspection
- (2) Lab examination

4. A plant quarantine inspector shall after informing the owner of seeds subject to post-entry quarantine or the agent that the seeds are subject to post-entry quarantine, check whether the sites for post-entry quarantine is suitable and if the site is deemed as suitable for post-entry

quarantine, shall order post-entry quarantine to the owner of the seeds or the agent.

5. If a plant quarantine inspector issues an order of post-entry quarantine to the owner of the seeds or the agent in accordance with paragraph 1 of Article 13 of the Act, he or she shall comply with the post-entry quarantine order under Document Form No. 7 of the Attachment, while clearly stating in the post-entry quarantine order form the information in the following subparagraphs:

- (1) A statement that the seed cannot be moved to a place other than the designated post-entry quarantine sites until the completion of the post-entry quarantine inspection
- (2) Other directions necessary for post-entry quarantine