

## **C. SEEDS AND PROPAGATING MATERIAL**

### **C1 The Seed and Plant Propagating Material Act**

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Passed on 13 May 1998

(RT\* I 1998, 52/53, 771),

entered into force 1 July 1998.

#### **Chapter 1**

#### **General Provisions**

#### **§ 1. Scope of application of Act**

(1) This Act regulates the use of plant varieties, the production and packaging of the seed and propagating material of species of agricultural and horticultural plants and the cultivating material of forestry plants for marketing purposes; the marketing, import and export thereof; and state supervision and liability for violation of this Act or legislation established on the basis thereof.

(2) This Act applies to seed intended for sowing and to planting material which are used for production.

(3) Special requirements for the use of the seed and propagating material of varieties protected in Estonia shall be provided for in the Plant Variety Rights Act (RT I 1998, 36/37, 553) and legislation established on the basis thereof.

#### **§ 2. Seed**

(1) In this Act, "seed" means the part of a plant which is capable of producing identical descendants.

(2) The seed of any category shall conform to the requirements set for the given category. The categories of seed are the following:

1) "pre-basic seed" means the seed which has been produced by or under the responsibility of the owner of the variety according to the methods prescribed for the maintenance of the variety and which is intended for the production of seed of subsequent categories;

2) "basic seed" means the seed which has been produced according to the methods prescribed for the maintenance of the variety and which is intended for the production of basic or certified seed of subsequent generations. Basic seed must be certified. There may be several categories of basic seed;

"certified seed" means the seed which is of direct descent from basic seed, or produced from the seed of the generation prior to basic seed in conformity with the requirements set for basic seed or from the certified seed of the previous generation, and which is intended for the production of certified seed of subsequent generations or used for sowing for the production of final products. There may be several categories of certified seed;

4) "standard seed" means the vegetable seed of sufficient identity and purity of species and variety which is intended for the production of final products. The varietal identity and purity of standard seed shall be ascertained by random post-control in official field trials;

5) "commercial seed" means the seed of sufficient identity of species and variety which is intended for sowing for the production of final products.

(3) The categories of seed and requirements therefor with regard to species or groups of species of agricultural or horticultural plants shall be established by a regulation of the Minister of Agriculture.

### § 3. Propagating material

(1) In this Act, "propagating material" means the plant material of agricultural or horticultural plants (in the case of fruit species and certain ornamental plants, also the seeds) used for the propagation of plant species and the production of planting material, and plants intended for planting or replanting.

(2) Propagating material of any category shall conform to the requirements set for the given category. The categories of propagating material are the following:

1) "pre-basic propagating material" means the propagating material which has been produced according to the methods prescribed for the maintenance of the variety and for the guarantee of the maintenance of its identity, and in the case of fruit species and berries, also for the guarantee of the maintenance of the characteristics of their pomological value, and with a view to preventing plant disease, and which is intended for the production of basic propagating material. Pre-basic propagating material must be certified;

2) "basic propagating material" means the propagating material which has been produced from pre-basic propagating material either directly or in a known number of stages in a vegetative way in order to maintain the variety and to guarantee the maintenance of its identity, and in the case of fruit species and berries, also to guarantee the maintenance of the characteristics of their pomological value, and with a view to preventing plant disease, and which is intended for the production of certified propagating material. There may be several categories of basic propagating material. Basic propagating material must be certified;

3) "certified propagating material" means the propagating material which has been produced from pre-basic propagating material or from the certified propagating material of prior generation directly or in a known number of stages in a vegetative way with a view to preventing plant disease. There may be several categories of certified propagating material;

4) "virus-free propagating material" means the propagating material of fruit species and berries which, by growing-season inspection, has been found free from symptoms of any virus or virus-like pathogen dangerous to the species concerned and capable of reducing the usefulness of the propagating material, and which has been maintained under conditions ensuring freedom from infection;

5) "controlled propagating material" means the propagating material which has been inspected by the Plant Production Inspectorate and is in conformity to the established requirements.

(3) The categories of propagating material and requirements therefor with regard to species or groups of species of agricultural or horticultural plants shall be established by a regulation of the Minister of Agriculture.

### § 4. Cultivating material

(1) In this Act, "cultivating material" means the seed or plant material of forestry plants intended for the propagation of plant species and for the production of planting material, and forestry plants intended for planting or replanting.

(2) The categories of cultivating material of forestry plants and requirements therefor shall be established by a regulation of the Minister of the Environment.

### § 5. Representative and maintainer of variety

(1) For the purposes of this Act, "representative of a variety" means a person who, on the basis and under the conditions of a contract entered into with the owner of the variety, has obtained the right to use the variety. Estonian citizens, persons who hold a permanent residence permit in Estonia and legal persons registered in Estonia may be representatives of varieties.

(2) For the purposes of this Act, "maintainer of a variety" means the owner of the variety or a person who is responsible for the production of parent material with identity of species and variety necessary for propagation.

(3) Representatives and maintainers of varieties shall be registered with the Plant Production Inspectorate.

#### § 6. Variety List

(1) The Variety List is a list of varieties permitted to be propagated for marketing purposes and sold in Estonia, which has been approved by a regulation of the Minister of Agriculture.

(2) A variety is entered in the Variety List if the variety:

1) is distinct, uniform and stable;

2) is of satisfactory value for cultivation and use;

3) is suitable for growing in the soil and climate conditions of Estonia or, depending on the plant species, in artificial conditions and;

4) bears a registered denomination in conformity with the requirements.

(3) The owner of a variety and a representative or maintainer of a variety (hereinafter applicant) may apply for entry of the variety in the Variety List. An applicant shall submit a standard application to the Plant Protection Inspectorate.

(4) A variety is entered in the Variety List if it has passed the official registration trials and the official trials for the agricultural value of cultivation and use and conforms to the requirements provided for in subsection (2) of this section. Official registration trials and official trials for the agricultural value of cultivation and use are organised by the Plant Production Inspectorate. Direct costs related to the conduct of official registration trials and official trials for the agricultural value of cultivation and use shall be paid by the applicant on the basis of an invoice submitted to the applicant.

(5) Varieties which have been entered in the EU Common Catalogue of Varieties or the List of Cultivars for Certification of the Organization for Economic Cooperation and Development (OECD) are entered in the Variety List if they conform to the requirements provided for in clauses (2) 2) and 3) of this section.

(6) An applicant is required to ensure the delivery of the amount of seed or propagating material necessary for the conduct of the trials specified in subsection (4) of this section to the designated place and by the designated date, at the applicant's expense.

(7) An applicant is required to guarantee the maintenance of a variety entered in the Variety List during its entire registration period.

(8) The Variety List is amended as required after the results of trials have been obtained but not later than during the month of February of the following year.

(9) The list of plant species to be entered in the Variety List, the procedure for entry of varieties therein and the application form shall be established by a regulation of the Minister of Agriculture.

#### § 7. List of recommended varieties

(1) Lists of recommended varieties may be compiled of horticultural plants the varieties of which are not subject to entry in the Variety List pursuant to the procedure provided for in § 6 of this Act.

(2) A variety entered in a list of recommended varieties shall conform to the requirements provided for in subsection 6 (2) of this Act.

(3) The requirements specified in clause 6 (2) 1) of this Act are deemed to be met if a variety has been officially registered in Estonia or in a foreign country or if it has been entered in a similar list of varieties of a foreign country, the EU Common Catalogue of Varieties or the OECD List of Cultivars for Certification. The results of trials for the agricultural value of cultivation and use or of examinations for the value for cultivation of a variety organised or conducted by the person compiling a list of recommended varieties, and practical experience gained upon cultivation of a variety are the basis for application of clauses 6 (2) 2) and 3) of this Act.

(4) Lists of recommended varieties may be compiled by professional associations and organisations having the authorisation of the Minister of Agriculture, or by persons engaged in the production or marketing of seed or propagating material. A variety may be entered in a list of recommended varieties with the permission of the owner of the variety, or the representative or maintainer of the variety.

(5) A person compiling a list of recommended varieties is required to ensure the maintenance of a variety entered in the list during its entire registration period.

(6) Lists of recommended varieties shall be submitted to the Plant Production Inspectorate.

#### § 8. Registration of varieties

(1) Data on varieties whose entry in the Variety List is applied for or which have been entered in the Variety List or a list of recommended varieties shall be registered and preserved by the Plant Production Inspectorate pursuant to § 38 of the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552).

(2) Data are collected, preserved and released pursuant to this Act and the Databases Act.

#### § 9. Data subject to registration

(1) The following data are subject to registration in the case of an application for entry of a variety in the Variety List:

- 1) the application and the date of submission thereof;
- 2) the names and addresses of the owner of the variety and of the representative or maintainer of the variety;
- 3) the Latin and common names of the species;
- 4) the variety denomination and the breeder's reference;
- 5) the technical description of the variety;
- 6) the results of official registration trials;
- 7) the results of official trials for the agricultural value of cultivation and use.

(2) The data provided for in clauses (1) 1)-6) of this section are also subject to registration in the case of an application for the registration of a new variety for the first time unless the owner of the variety applies for plant variety rights.

(3) The following data are subject to registration with regard to a variety entered in the Variety List or a list of recommended varieties:

- 1) the application or the list of recommended varieties, and the date of submission thereof;
- 2) the names and addresses of the owner of the variety, and of the representative or maintainer of the variety;
- 3) the Latin and common names of the species;
- 4) the variety denomination;
- 5) the official description of the variety;
- 6) the results of official registration trials;
- 7) in the case of plant species subject to entry in the Variety List, the results of official trials for the agricultural value of cultivation and use;
- 8) if the production of seed or propagating material of the variety requires continuous exploitation of other varieties as the components of the variety, the list of such components;
- 9) the year of entry of the variety in the Variety List or in a list of recommended varieties and the duration of registration of the variety;
- 10) information concerning the authorisation of the representative or maintainer of the variety, with a reference to the document certifying such authorisation;
- 11) other data describing the variety and its characteristics for use.

#### § 10. Publication of data

(1) The following is published in the Plant Production Inspectorate Official Gazette, the official publication of the Plant Production Inspectorate:

- 1) the list of varieties entered in the Variety List;
- 2) the list of varieties entered in a list of recommended varieties;
- 3) the names and addresses of owners of varieties and of representatives or maintainers of registered varieties;
- 4) decisions concerning the deletion of varieties from the Variety List or a list of recommended varieties, and amendments made to the corresponding lists;
- 5) other official notices.

(2) The publication specified in subsection (1) of this section is published regularly according to the receipt of data to be published but not less frequently than once in four months.

#### § 11. Preservation of data

All registered data and the documents which were the basis for the registration thereof shall be preserved for five years from the date of making the decision on refusal to enter a variety in the Variety List or from the date of deletion of a variety from the Variety List or a list of recommended varieties.



## Issue of Activity Licences

### § 12. Application for activity licence and conditions for issue thereof

(1) Persons who wish to produce or package seed or propagating material for marketing purposes shall submit a standard application for an activity licence to the Plant Production Inspectorate. Persons who wish to produce or package cultivating material for marketing purposes shall submit a standard application for an activity licence to the Forestry Board.

(2) An activity licence for production is issued if the following are at the disposal of the applicant:

- 1) land which is free from dangerous plant diseases, pests and hard-to-control weeds and in the close proximity of which no such diseases, pests or weeds exist;
- 2) agricultural machinery necessary for the proper cultivation of land and equipment and qualified staff necessary for harvesting.

(3) An activity licence for packaging is issued if the following are at the disposal of the applicant:

- 1) buildings if their technical and sanitary conditions are suitable for the processing, packaging and storage of seed or propagating or cultivating material;
- 2) equipment and qualified staff necessary for proper packaging.

(4) A person to whom an activity licence for production has been issued shall be registered under the producer's identification number, and a person to whom an activity licence for packaging has been issued shall be registered under the packager's identification number.

(5) The application form for an activity licence, and the plant diseases and pests deemed to be dangerous and weeds deemed to be hard to control with regard to each plant species or group of plant species shall be approved by a regulation of the Minister of Agriculture or the Minister of the Environment.

(6) The Plant Production Inspectorate or Forestry Board shall issue an activity licence or shall notify the applicant of refusal to issue an activity licence, within one month after the receipt of the application.

(7) Data concerning issued activity licences and information which was the basis for issue thereof shall be registered by the Plant Production Inspectorate or Forestry Board pursuant to § 38 of the Databases Act. The Plant Production Inspectorate and Forestry Board shall preserve all documents submitted for application for an activity licence, for five years after the date of submission of the application.

### § 13. Data to be submitted for application for activity licence

(1) An applicant for an activity licence for the production of seed or propagating or cultivating material shall submit the following data:

- 1) the name, address and details of the applicant;
- 2) the location and size of the field or land at the disposal of the applicant that is suitable for plant production;
- 3) the list and technical specifications of agricultural machinery and equipment at the disposal of the applicant;
- 4) the location and short description of the site at the disposal of the applicant designated for the storage and processing of produced seed or propagating or cultivating material;
- 5) the number of employees and their official titles;
- 6) the list of plant species and, at the request of the issuer of the activity licence, also the list of varieties, the seed or propagating or cultivating material of which the applicant wishes to produce.

(2) An applicant for an activity licence for the packaging of seed or propagating or cultivating material shall submit the following data:

- 1) the name, address and details of the applicant;
- 2) the address of the packaging premises;
- 3) a short description of the buildings at the disposal of the applicant necessary for the processing, packaging and storage of seed or propagating or cultivating material;
- 4) the list and technical specifications of machinery and equipment at the disposal of the applicant necessary for conditioning seed or propagating or cultivating material for marketing purposes;
- 5) the number of employees and their official titles;
- 6) the list of plant species and, at the request of the issuer of the activity licence, also the list of varieties, the seed or propagating or cultivating material of which the applicant wishes to package.

## Chapter 3

### Production of Seed and Propagating and Cultivating Material

#### § 14. Requirements for production

(1) Persons to whom an activity licence for production has been issued pursuant to § 12 of this Act may produce seed and propagating or cultivating material for marketing purposes. A producer of the seed or

propagating or cultivating material of a protected variety must also have the permission of the holder of the plant variety rights or the representative of the variety, registered in the Plant Production Inspectorate.

(2) If the holder of an activity licence for production wishes to produce the seed or propagating or cultivating material of plant species other than those for the production of which the activity licence has been issued, a new activity licence shall be applied for.

(3) Produced seed lots and lots of propagating or cultivating material which may cause the spread of dangerous plant diseases, pests or hard-to-control weeds, or any other harm to the surrounding environment or human or animal health shall be destroyed at the expense of the producer, on the basis of a decision of the supervisory authority.

(4) Persons engaged in the production of seed or propagating or cultivating material shall keep detailed records of their activities. Documents concerning the production, certification or marketing of seed or propagating or cultivating material shall be preserved for at least six years.

(5) Owners of varieties and representatives or maintainers of varieties have the right to organise the production of seed or propagating material. In the case of plant species subject to entry in the Variety List, it is only permitted to produce for marketing purposes the seed or propagating material of the varieties entered in the Variety List.

(7) If methods of micropropagation are used for the propagation of plant species, accredited laboratories may produce propagating material for marketing purposes on the basis of a contract entered into with, and from parent material received from, the owner of the variety or the representative or maintainer of the variety. If the maintainer of a variety is an accredited laboratory, the parent material maintained by the laboratory may be used for the production of propagating material. Produced propagating material shall conform to the established quality requirements, and have identity and purity of species and variety. The conditions and procedure for the accreditation of laboratories which produce propagating material shall be established by the Minister of Agriculture and the conditions and procedure for the accreditation of laboratories which produce cultivating material shall be established by the Minister of the Environment.

(8) In the case of hybrids and rootstocks, the requirements provided for in this section apply to the production of all parents and components of a variety used for the production of seed or propagating material.

(9) The cultivating material from trees entered in the register of plus-trees shall be used for the production of the seed of forest trees.

#### Chapter 4

#### Certification and Inspection of Seed and Propagating and Cultivating Material

##### § 15. Certification of seed and propagating or cultivating material

(1) "Certification of seed or propagating material" means ascertaining the descent, and the identity and purity of the species and variety of the seed or propagating material by the Plant Production Inspectorate, a laboratory analysis thereof by an accredited laboratory of the Plant Material Control Centre, and the sealing of the sales packaging of certified seed or propagating material under the supervision of the Plant Production Inspectorate. "Certification of cultivating material" means the verification of conformity to the established quality requirements by an accredited laboratory and the sealing of the sales packaging of certified cultivating material under the supervision of the Forestry Board.

(2) A document attesting certification is issued for lots of certified seed or propagating material by the Plant Production Inspectorate and for lots of certified cultivating material by the Forestry Board.

(3) Only the seed and propagating material of the varieties of agricultural or horticultural plants entered in the list of plant species subject to certification, the Variety List or a list of recommended varieties, and the cultivating material of forestry plants entered in the list of plant species subject to certification are subject to certification.

(4) In the case of certification of hybrids, all parents and components of a variety used for the production of seed or propagating material must be certified.

(5) The certification of seed and propagating material is organised by the Plant Production Inspectorate on the basis of an application by the owner of the variety or the representative or maintainer of the variety. The certification of cultivating material is organised by the Forestry Board on the basis of an application by a person producing or marketing the cultivating material.



(6) The list of species of agricultural and horticultural plants subject to certification shall be established by a regulation of the Minister of Agriculture and the list of species of forestry plants subject to certification shall be established by a regulation of the Minister of the Environment.

**§ 16. Other seed and propagating or cultivating material**

(1) The conformity to the established requirements of the seed or propagating or cultivating material of plant species and varieties not subject to certification that are to be marketed is verified by the producer or supplier.

(2) In the case of hybrids, the requirements provided for in this section apply to all parents and components of a variety used for the production of seed or propagating material.

(3) For other seed and propagating material, the quality requirements for plant species or groups of plant species shall be established by a regulation of the Minister of Agriculture and the quality requirements for other cultivating material shall be established by a regulation of the Minister of the Environment.

**Chapter 5**

**Packaging of Seed and Propagating or Cultivating Material**

**§ 17. Packaging requirements**

(1) Only holders of the activity licence provided for in § 12 of this Act may package seed or propagating or cultivating material for marketing purposes. Packagers of seed or propagating or cultivating material of protected varieties shall also have the permission of the owner of the variety or the representative of the variety, registered in the Plant Production Inspectorate.

(2) If the holder of an activity licence wishes to package seed or propagating or cultivating material of plant species or varieties other than those for the packaging of which the activity licence has been issued, a new activity licence shall be applied for.

(3) Persons who are engaged in the packaging of seed or propagating or cultivating material shall keep detailed records of their activities and preserve documents concerning packaging for at least three years.

(4) Certified seed and propagating material shall be packaged and the sales packaging shall be sealed and labelled under the supervision of the Plant Production Inspectorate. Packages of certified cultivating material shall be sealed and labelled under the supervision of the Forestry Board.

(5) The packager is responsible for the conformity of seed lots and lots of propagating or cultivating material to the particulars indicated in the documents attesting the quality thereof, and for the conformity of the contents of the sales packaging to the information indicated on the label.

(6) On the basis of an application, the Plant Production Inspectorate has the right to authorise the sale of certified seed in bulk to the final consumer. Both the seller and final consumer shall submit information concerning the quantity and categories of the seed which is the object of the transaction, and the name and address of the seller and final consumer to the Plant Production Inspectorate.

**§ 18. Labelling of packaging and documents attesting quality**

(1) The sales packaging of certified seed or propagating or cultivating material shall be supplied with an official label. In the case of agricultural and horticultural plants, the information required to be indicated on the label may, under the supervision of the Plant Production Inspectorate, be printed on the packaging, according to the format of the label. The labels of the sales packaging of the seed or propagating material of genetically modified varieties shall bear the letters GMO. The use of genetically modified organisms is regulated by a specific Act.

(2) Certified seed lots and lots of propagating or cultivating material shall be accompanied by a valid document attesting certification.

(3) Other lots of seed or propagating material shall be supplied with a proper label or product information. The list of plant species, the lots of seed or propagating material of which must be supplied with a label, and the list of plant species, the lots of seed or propagating material of which must be supplied with product information shall be established by a regulation of the Minister of Agriculture. The list of plant species, the lots of cultivating material of which must be supplied with a label shall be established by a regulation of the Minister of the Environment.

(4) Other seed lots and lots of propagating or cultivating material shall be supplied with a document attesting the origin and identity of the species or variety and, in the cases provided, the identity of both the species and variety, and the quality of the seed or propagating or cultivating material.

(5) If seed or propagating material has been chemically treated or treatment thereof is recommended, the corresponding information shall be indicated on the label or inside the packaging.

(6) The requirements and conditions for the packaging of seed or propagating material, and for the sealing and labelling thereof, the procedure for authorisation of the sale of seed in bulk, the format and content of

required documents and labels attesting certification or inspection with regard to plant species or groups of plant species shall be established by a regulation of the Minister of Agriculture. The requirements and conditions for the packaging of cultivating material and for the sealing and labelling of the sales packaging thereof, and the format and content of required documents and labels attesting certification or inspection shall be established by a regulation of the Minister of the Environment.

#### Chapter 6

#### Import and Export of Seed and Propagating or Cultivating Material

##### § 19. Import requirements

(1) Before the import of a seed lot or a lot of propagating or cultivating material, the importer shall apply for an import permit for the import of the lot from the Plant Production Inspectorate in the case of agricultural and horticultural plants, and from the Forestry Board in the case of forestry plants. An import permit is issued on the basis of the document attesting certification or quality specified in subsection (4) of this section, and the plant health certificate, plant passport or a copy thereof issued by the authority exercising state supervision in the exporting country.

(2) In the case of species subject to entry in the Variety List, it is only permitted to import the seed and propagating material of the varieties entered in the Variety List. Such restriction does not apply to the import of seed or propagating material for the purposes of plant breeding, scientific research or official trials.

(3) If the importer of seed or propagating material is not the representative of the variety, the importer is required to notify the representative of the variety of the plant species, and of the variety and quantity of the seed or propagating material which the importer intends to import, within two weeks before the intended import.

(4) The seed and propagating or cultivating material imported for marketing purposes shall be packaged. The packaging shall be supplied with a label or product information provided for in subsection 18 (1) or (3) of this Act. In the case of plant species subject to certification, the imported seed lots and lots of propagating or cultivating material shall be supplied with a certificate of the International Seed Testing Association (ISTA), an OECD certificate or a document attesting certification issued by the authority exercising state supervision in the exporting country, and in the case of other plant species, with a document attesting quality issued by the authority exercising state supervision in the exporting country, and conform to the requirements established in Estonia.

(5) Persons engaged in the import of seed or propagating or cultivating material shall keep detailed records of their activities and preserve documents concerning imports for at least three years.

##### § 20. Supervision over import

(1) Supervision over the import of seed or propagating material is exercised by the Plant Production Inspectorate in co-operation with the Customs Board. Supervision over the import of cultivating material is exercised by the Forestry Board in co-operation with the Customs Board. The Customs Board shall verify the existence of an import permit provided for in subsection 19 (1) of this Act.

(2) On the basis of a decision of the supervisory authority, control samples for an analysis may be taken from imported seed lots or lots of propagating or cultivating material in order to verify the conformity of the seed lots or lots of propagating or cultivating material to the quality requirements established in Estonia.

(3) An imported seed lot or a lot of propagating or cultivating material which fails to conform to the requirements established in Estonia and is subject to return on the basis of a decision of the supervisory authority shall be returned at the expense of the importer unless otherwise provided for in a contract between the importer and the exporter.

(4) Imported seed lots and lots of propagating or cultivating material which may cause the spread of dangerous plant diseases, pests or hard-to-control weeds, or any other harm to the surrounding environment or human or animal health are subject to return or destruction at the expense of the importer, on the basis of a decision of the supervisory authority.

(5) The requirements for the import of seed and propagating material shall be established by a regulation of the Minister of Agriculture. The requirements for the import of cultivating material shall be established by a regulation of the Minister of the Environment.

##### § 21. Export requirements

(1) The seed or propagating material of varieties protected in Estonia may be exported only with the authorisation of the holder of the plant variety rights. One week before the commencement of export, the exporter shall submit to the Plant Production Inspectorate the authorisation obtained from the holder of the plant variety rights and a notice which sets out the name, address and details of the exporter, the



denomination of the variety to be exported and the quantity of the seed or propagating material to be exported.

(2) One month before the commencement of export, the exporter of cultivating material shall submit to the Forestry Board a notice which sets out the name, address and details of the exporter, and the name and quantity of the plant species to be exported.

(3) The export of cultivating material of plant species which are rare in Estonia is prohibited. The list of rare plant species, the export of cultivating material of which is prohibited shall be established by a regulation of the Minister of the Environment.

#### Chapter 7

#### Marketing of Seed and Propagating or Cultivating Material

##### § 22. Marketing requirements

(1) In this Act, "marketing of seed or propagating or cultivating material" means the offer for sale, making available to the purchaser in any other manner, or the sale or transfer in any other manner of the seed or propagating or cultivating material.

(2) In the case of plant species subject to entry in the Variety List, it is only permitted to market the seed and propagating material of varieties entered in the Variety List.

(3) Marketed seed lots and lots of propagating or cultivating material of plant species and varieties subject to certification must be certified and supplied with a document attesting certification.

(4) Other marketed seed lots and lots of propagating or cultivating material must be supplied with a document attesting the origin, identity of species and, if required, also the identity of variety, and quality thereof.

(5) In order to make seed rapidly available, the document attesting certification specified in subsection 18 (2) of this Act may be substituted by an analytical report attesting the quality of the seed, on the condition that it is issued to the final consumer of the seed and that the required document attesting certification is sent to the recipient of the goods after the final determination of quality.

(6) Marketed seed and propagating and cultivating material must be properly packaged, and the packaging must be supplied with a proper label or product information provided for in subsection 18 (1) or (3) of this Act.

(7) If a marketed seed lot or lot of propagating or cultivating material may cause the spread of dangerous plant diseases, pests or hard-to-control weeds, or any other harm to the surrounding environment or human or animal health, the lot is subject to destruction at the expense of its owner on the basis of a decision of the supervisory authority.

(8) Persons engaged in the marketing of seed or propagating or cultivating material shall keep detailed records of their activities. Documents concerning marketed seed or propagating or cultivating material shall be preserved for at least three years.

(9) For the marketing of seed or propagating material, the quality requirements for plant species or groups of plant species shall be established by a regulation of the Minister of Agriculture. The quality requirements for the marketing of cultivating material shall be established by a regulation of the Minister of the Environment.

#### Chapter 8

#### State Supervision

##### § 23. State supervision and organisation thereof

(1) Supervision over conformity to the requirements of this Act and legislation established on the basis thereof shall be exercised by the Ministry of Agriculture through the Plant Production Inspectorate in the case of seed and propagating material and by the Ministry of the Environment through the Forestry Board in the case of cultivating material.

(2) Inspectors of the Plant Production Inspectorate and heads or inspectors of the regional offices of the Forestry Board have the right to:

1) verify conformity to the requirements established for the seed fields or growing sites of propagating or cultivating material and inspect the land in the close proximity thereof in order to ascertain the existence of dangerous plant diseases or pests or hard-to-control weeds;

2) inspect the seed used for the establishment of a seed field, and the propagating or cultivating material used as parent material for propagation, and to verify documents attesting the quality thereof;

3) inspect the sales premises of seed or propagating or cultivating material, and marketed seed or propagating or cultivating material, and to verify the accompanying documents thereof;

4) inspect the production, processing, packaging and storage premises of seed or propagating or cultivating material;

5) verify data concerning the production of seed or propagating or cultivating material, and documents and records concerning packaging, marketing and import.

(3) Inspectors of the Plant Production Inspectorate and heads or inspectors of the regional offices of the Forestry Board have the right to:

1) take control samples without charge in order to determine the quality of seed or propagating or cultivating material or verify the maintenance of a variety;

2) if a violation of this Act or legislation established on the basis thereof or other legislation regulating this area is discovered, issue a mandatory precept and prohibit the marketing of the seed or propagating or cultivating material, indicating the possibilities for further use of such seed or propagating or cultivating material;

3) if the results of the analysis of an officially taken control sample show that a seed lot or a lot of propagating or cultivating material fails to conform to the quality requirements established for marketed seed or propagating or cultivating material, issue a mandatory precept and prohibit the marketing of the seed or propagating or cultivating material, indicating the possibilities for further use of such seed lot or lot of propagating or cultivating material;

4) if the results of the analysis of a control sample officially taken from an imported seed lot or lot of propagating or cultivating material show that the lot does not conform to the requirements established for marketed seed or propagating or cultivating material, issue a mandatory precept and demand the return of such lot or indicate the possibilities for further use thereof;

5) issue a mandatory precept and demand the destruction of a seed lot or a lot of propagating or cultivating material pursuant to the environmental regulations if the use thereof may promote the spread of dangerous plant diseases or pests or hard-to-control weeds, or cause any other harm to the surrounding environment.

(4) Upon the issue of a precept, the name and the exact official title of the inspector or authorised person issuing the precept, the circumstances due to which the precept is issued together with a reference to a provision of the corresponding Act or legislation passed on the basis thereof, and the term for compliance with the precept shall be indicated.

#### § 24. Elimination of discovered deficiencies

(1) If deficiencies in the marketing of seed or propagating or cultivating material discovered in the course of supervision can be eliminated, inspectors of the Plant Production Inspectorate and heads or inspectors of the regional offices of the Forestry Board are required to establish, in a precept, a term for elimination of the deficiencies.

(2) Seed lots and lots of propagating or cultivating material provided for in subsection (1) of this section shall be specially marked.

(3) A sales prohibition is revoked if the deficiencies have been eliminated by the due date.

#### § 25. Rights and duties of Plant Production Inspectorate and Forestry Board

(1) The Director General of the Plant Production Inspectorate and the Director General of the Forestry Board have the right to:

1) revoke activity licences for production or packaging provided for in § 12 of this Act if non-conformity to the established requirements becomes evident;

2) disclose the results of inspections and notify holders of plant variety rights, or representatives or maintainers of protected varieties of the growing area of produced seed or propagating material and of the quantity of certified seed or propagating material;

3) lower the category of a certified seed lot or lot of propagating or cultivating material if, during an inspection, it becomes evident that the lot does not conform to the requirements provided for in this Act or legislation established on the basis thereof, or documents required in this Act;

4) prohibit the production and marketing of seed or propagating or cultivating material if, in the case of seed or propagating material of the varieties of plant species subject to certification, it has been ascertained that the variety is not distinct, uniform and stable, or if the parent material for the propagation of cultivating material does not conform to the established requirements;

5) co-operate with representatives of other agencies in supervising conformity to the requirements of this Act and legislation established on the basis thereof.

(2) Inspectors of the Plant Production Inspectorate, persons authorised by the Director General of the Plant Production Inspectorate, officials of the Forestry Board, heads or inspectors of the regional offices of the Forestry Board and persons authorised by the Director General of the Forestry Board are prohibited from

disclosing confidential information on the financial status of producers, packagers or suppliers of seed or propagating or cultivating material, or business secrets thereof which have become known to them in the performance of their official duties.

(3) Subsection (2) of this section does not extend to the communication of information to state agencies in the cases and under the conditions prescribed by law.

#### Chapter 9

##### Liability

##### § 26. Bases for liability

(1) Natural persons bear disciplinary, administrative, civil or criminal liability for violation of the requirements arising from this Act and legislation established on the basis thereof, pursuant to the procedure prescribed by law.

(2) Legal persons bear liability on the basis of this Act.

##### § 27. Preparation of report on administrative offence committed by legal person

(1) The Director General, his or her deputy and state inspectors of the Plant Production Inspectorate and the Director General of the Forestry Board, his or her deputy, and heads or inspectors of the regional offices of the Forestry Board have the right to prepare reports on administrative offences committed by legal persons.

(2) A report on an administrative offence shall set out:

- 1) the time and place of preparation thereof;
- 2) the name and address of the agency in whose name the report is prepared;
- 3) the given name, surname and official title of the official who prepared the report;
- 4) the name and address of the legal person who committed the administrative offence and the title, given name and surname of the competent representative of the person;
- 5) the place, time and description of the administrative offence;
- 6) a reference to the section which prescribes liability for the administrative offence;
- 7) materials which substantiate the commission of the administrative offence, such as statements of witnesses, expert opinions, analyses and other material necessary for the resolution of the matter;
- 8) an explanation from the representative of the administrative offender and a notation that the representative of the administrative offender has been advised of his or her right to obtain legal assistance.

(3) The official who prepared the report and the representative of the offender shall sign the report. If the representative of the offender refuses to sign the report, the person who prepared the report shall make a note in the report regarding such refusal. Written comments made by the representative of the offender in respect of the report shall be annexed to the report.

(4) The officials specified in subsection (1) of this section may impose a fine of up to 25 000 kroons. Administrative court judges may impose a fine of up to 50 000 kroons.

(5) Proceedings in matters regarding administrative offences which involve legal persons shall be conducted pursuant to the procedure provided for in the Code of Administrative Offences.

##### § 28. Fines imposed on legal persons

If a legal person:

- 1) fails to conform or inadequately conforms to the requirements specified in § 18, subsections 19 (4) and (5), 20 (3) and (4), and 21 (3) of this Act, a fine of up to 25 000 kroons is imposed;
- 2) fails to conform or inadequately conforms to the requirements specified in subsections 14 (1), (3), (5), (6), (7) and (8), 17 (1), 19 (1) and (2), 21 (1), and 22 (2), (3), (4), (6), (7) and (8) of this Act, a fine of up to 50 000 kroons is imposed.

#### Chapter 10

##### Amendments to Other Legislation and Implementation of Act

[§§ 29–30 omitted]†

##### § 31. Entry into force of Act

(1) This Act enters into force on 1 July 1998.

(2) Subsections 12 (1) and (4), 14 (1), (4) and (7), 16 (1), and 17 (1) of this Act do not apply to seed lots and lots of propagating or cultivating material produced in 1998 and earlier.

(3) This Act applies to species and varieties of grasses imported and marketed as seed blends as of 1 January 2000 on the condition that field trials of these varieties have been carried out in Estonia.

(4) The requirements provided for in subsections 15 (2) and (6), 17 (4), 18 (2) and (3), and 22 (3) and (6) of this Act are applied as of 1 July 1999.