

Plant Propagation and Plant Variety Rights Act

Passed 8 December 2005

(RT I 2005, 70, 540),

entered into force 1 January 2006.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act regulates the registration of plant varieties (hereinafter varieties), entry of varieties in the Variety List, grant of plant variety rights, the rights of the holders of plant variety rights, the production for marketing purposes of seed, plant propagating material (hereinafter propagating material) and cultivating material including the packaging, marketing and conveyance to Estonia and state supervision thereof, and the liability for the violation of this Act and legislation established on the basis thereof.

(2) This Act does not apply to the seed and propagating and cultivating material which is:

- 1) produced for own use;
- 2) intended for export, except for seed not yet finally certified;
- 3) propagating material intended for supply to the final consumer through the local market in small quantities, except for seed potatoes;
- 4) seed used for industrial raw material.

(3) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed by the legislation of the European Union, this Act and the legislation established on the basis thereof, taking account of the specifications of the legislation of the European Union and this Act.

(4) The provisions of the Food Act apply to the use of seed as a food or raw material for food.

(5) The provisions of the Feedingstuffs Act apply to the use of seed as a feedingstuff or ingredient of a feedingstuff.

§ 2. Variety and essentially derived variety

(1) For the purposes of this Act, a variety shall mean a plant grouping within a single botanical taxon of the lowest known rank which is defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, is distinguished from other plant groupings by the expression of at least one of the said characteristics and is considered as a unit with regard to its suitability for being propagated unchanged. Such plant grouping is deemed to be a variety irrespective of whether the conditions for the grant of a plant variety right are fulfilled or not.

(2) A variety is deemed to be essentially derived from another variety by its phenological characteristics if it is predominantly derived from the initial variety or a variety that is itself predominantly derived from the initial variety, it is clearly distinguishable from the initial variety, and, except for the differences which result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(3) Essentially derived varieties may be obtained by the selection of a mutant or a variant individual of the initial variety, by back-crossing, transformation by genetic engineering, somatic cloning, or other such method.

§ 3. Seed

(1) For the purposes of this Act, seed shall mean the seed of agricultural plants including the seed of cereals, fodder crops, oil crops, fibre crops and beets, and the seed of vegetables which are used or intended for the production of seed for marketing purposes or propagating material, or for growing plants.

(2) The seed of cereals, fodder crops, oil crops, fibre crops, vegetables and beets are divided into categories based on their descent and quality.

(3) The categories and quality requirements for seed by groups of plant species as specified in subsection (2) of this section shall be established by the Minister of Agriculture.

§ 4. Propagating material

(1) For the purposes of this Act, propagating material shall mean seed potatoes, and in the case of horticultural plants, above all the plant material used for the propagation of plant species and the production of planting material including, in the case of fruit, berry and ornamental plant species, also the seed and the vegetative and seedling stock, and in the case of fruit, berry and vegetable species, also the planting stock which are the plants or parts of plants intended for planting or replanting.

(2) Seed potatoes and the propagating material of fruit and berry species are divided into categories based on their descent and quality.

(3) The categories of and requirements for propagating material according to the plant species specified in subsection (1) of this section shall be established by the Minister of Agriculture.

§ 5. Cultivating material

(1) For the purposes of this Act, cultivating material shall mean the seed, parts of plants and planting stock intended for the planting or replanting of the tree species and hybrids thereof used for forestry purposes specified in Annex I to Council Directive 1999/105/EC on the marketing of forest reproductive material (OJ L 011, 15.01.2000, pp. 17–40).

(2) Cultivating material is divided into categories based on the origin and quality of the parent material.

(3) The categories of and requirements for the parent material of cultivating material shall be established by the Minister of the Environment.

§ 6. Seed and propagating or cultivating material of genetically modified varieties

(1) The production for marketing purposes, and the packaging and marketing of the seed and propagating or cultivating material of genetically modified varieties, and the state supervision over such activities shall be organised pursuant to the provisions of this Act and in compliance with the requirements of this Act and taking account of the requirements provided by the Deliberate Release of Genetically Modified Organisms into the Environment Act.

(2) The requirements for the purity and marking of the seed and propagating or cultivating material of genetically modified varieties and other relevant requirements may be established by the Minister of Agriculture.

(3) The requirements for the purity of a lot and marking of the seed and propagating or cultivating material of varieties which are not genetically modified but contain genetically modified organisms and other relevant requirements may be established by the Minister of Agriculture.

§ 7. Calculation of terms for proceedings, delivery of decisions made based on this Act and acts subject to state fee

(1) The terms for the proceedings prescribed to the Plant Production Inspectorate and the Centre of Forest Protection and Silviculture on the basis of this Act shall be calculated after the payment of the state fee as of the date of receipt of an application together with all the necessary documents in proof of the information presented in the application (hereinafter collectively referred to as application).

(2) A copy or excerpt of a decision made by the Plant Production Inspectorate and the Centre of Forest Protection and Silviculture on the basis of this Act shall be sent to a person within ten days after the making of the decision by post, by sending a registered letter or registered letter with advice of delivery.

Chapter 2

Variety

Division 1

Requirements for Variety

§ 8. Registration of variety

(1) Only registered species shall be protected by variety right, entered in the Variety List or the list of recommended varieties of agricultural plants. Registration of a variety is a procedure in the course of which the conformity of the variety with the requirements of this Act is established and a conforming variety is entered in the state Plant Varieties Register.

(2) A person wishing to register a variety shall submit a standard format application to the authorised processor of the state Plant Varieties Register (hereinafter registrar). The person who submits an application shall be responsible for the correctness of the information contained therein.

(3) The format for the application specified in subsection (2) of this section, the information to be submitted in the application, a list of documents to be annexed to the application and the procedure for application for the registration of a variety shall be established by the Minister of Agriculture.

(4) Together with registration of a variety, the owner of a variety may also apply for a variety right or entry of the variety in the Variety List.

§ 9. Breeder of variety and owner of variety

(1) The breeder of a variety is a natural person or a group of persons who has bred or identified the variety by using different breeding techniques.

(2) The owner of a variety is the breeder of the variety or the person who has acquired the proprietary rights attached to the variety on a legal basis.

(3) If a variety is bred by a breeder in the course of performance of an employment or service duty or contractual obligation, the employer or the customer of the breeder is deemed to be the owner of the variety.

(4) A breeder or owner of a variety who has no residence or seat in the republic of Estonia or another Member State who wishes to register the variety, apply for a plant variety right or perform another act provided for in this Act must engage a representative with a residence or seat in the republic of Estonia or another Member State for such purposes. The general principles of civil law apply to such representation.

§ 10. Requirements for variety

A variety must be distinct, uniform and stable and must bear an appropriate variety denomination.

§ 11. Distinctness of variety and known variety

(1) A variety is deemed to be distinct if it is clearly distinguishable by reference to the expression of one or several essential characteristics from any other variety whose existence is a matter of common knowledge at the time of filing of an application.

(2) A variety is deemed to be distinct if:

- 1) an application for the registration of the variety or an application for a variety right concerning the variety has been submitted in Estonia or another country;
- 2) an application for its entry in the Variety List has been submitted in Estonia or another country;
- 3) it has been described in a publication;
- 4) it is used in production;
- 5) it is being marketed, or
- 6) it has been described in a catalogue issued by an international organisation.

(3) A variety for the registration, placing under protection or entry in the Variety List of which an application has been submitted is deemed to be known by the registrar as of the date of submission of the application presuming that after the receipt of the application the variety will be registered, placed under protection or included in the Variety List.

§ 12. Uniformity of variety

A variety is deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in the expression of those characteristics which are included in the examination for distinctness, as well as of any others used for the variety description.

§ 13. Stability of variety

A variety is deemed to be stable if its relevant characteristics remain unchanged after repeated vegetative or generative propagation, or at the end of a particular cycle of propagation.

§ 14. Variety denomination

(1) The application specified in subsection 8 (2) of this Act shall include a proposal concerning the denomination of the variety in the form of a code or a denomination which must be approved by the registrar.

(2) If an applicant is submitting an application for the registration of the same variety simultaneously in Estonia as well as another country, the denomination proposed in those applications must be the same.

(3) After a variety has been registered, the variety must be referred to only by the variety denomination approved by the registrar.

§ 15. Requirements for variety denominations

A variety denomination shall conform to the requirements established by Commission Regulation 930/2000/EC establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species (OJ L 108, 05.05.2000, pp. 3–6).

§ 16. Registration trials

(1) The registration trials of a variety shall determine:

- 1) whether the variety belongs to the botanical taxon stated in an application;
- 2) its distinctness;
- 3) its uniformity; and
- 4) its stability.

(2) If a variety has been registered in another country, the registrar has the right to order, at the expense of the applicant, a report on the results of the registration trials of the variety from the competent authority of such country. The registrar may decide not to organise registration trials if, after assessing such report, the registrar finds that the results of the registration trials of the variety conform to the requirements of distinctness, uniformity and stability.

(3) If a variety has been registered in another country but the registration trials of the variety were carried out under conditions which significantly differ from the climatic conditions in Estonia, the registration trials may be carried out to the extent determined by the registrar.

§ 17. Organisation and performance of registration trials of variety

(1) The performance of registration trials of varieties is organised by the registrar.

- (2) Registration trials of varieties are carried out under the supervision of the registrar. The registrar shall forward the documents necessary for the performance of a registration trials of a variety to the person carrying out the trials.
- (3) The registration trials for the establishment of the distinctness, uniformity and stability of a variety shall be carried out in adherence to the methodology of the Community Plant variety Office (hereinafter CPVO) and in the absence thereof, the methodology of the International Union for the Protection of New Varieties of Plants (hereinafter UPOV).
- (4) If no methodology specified in subsection (3) of this section applicable to a plant species exists, the registrar shall elaborate an appropriate methodology in adherence to the internationally recognised principles applied by the UPOV, and co-ordinate it with the person carrying out the registration trials.
- (5) The registrar shall determine the quality and quantity of the seed or propagating material of the variety indicated in the application and any requisite reference varieties necessary for the conduct of the registration trials.
- (6) The registrar shall set the applicant a term for delivery of the material necessary for the conduct of the registration trials.
- (7) Registration trials shall be carried out in a place and during the period prescribed by the registrar.
- (8) The costs directly related to the conduct of the registration trials shall be borne by the applicant for registration based on an invoice issued by the person carrying out the registration trials.
- (9) The procedure for performance of registration trials of varieties may be established by the Minister of Agriculture.

§ 18. Results of registration trials

- (1) The results of registration trials shall be set forth in a report.
- (2) The registrar shall make a decision on the conformity or non-conformity of the distinctness, uniformity and stability of a variety based on the results of the registration trials

of the variety within thirty working days after receiving the report on the results of the registration trials.

§ 19. Verification of conformity of variety denominations

(1) The registrar shall publish a proposal concerning a variety denomination on its website and in the official publication of the Plant Production Inspectorate.

(2) The registrar shall verify the conformity of a variety denomination to the requirements provided in § 15 of this Act within twenty days after receiving the proposal for the variety denomination.

(3) If the registrar establishes that the proposed variety denomination does not conform to the requirements provided by this Act, the applicant shall be notified. The applicant has the right to make a new proposal for a variety denomination within thirty days after receiving a notice to such effect. The conformity of the new variety denomination shall be verified pursuant to the procedure provided in this section.

(4) If the applicant fails to make a proposal for a new variety denomination within the term provided in subsection (3) of this section, the registrar shall make a decision whereby the registration of the variety is terminated.

§ 20. Objections to proposed variety denomination

(1) A written objection to a proposed variety denomination which has been made public may be made by interested persons within three months after the publication of the proposed variety denomination. Such objection must be reasoned and it shall be submitted to the registrar.

(2) The registrar shall notify an applicant of a submitted objection by post within ten working days after receipt thereof.

(3) An applicant shall respond to an objection in writing within thirty working days after receipt thereof.

(4) The registrar shall make a decision on disregarding an objection or accepting an objection within twenty working days after the receipt of the written response specified in subsection (3) of this section, and shall forward it to the person who filed the objection and to the applicant within ten working days after making the decision.

(5) If, in the opinion of the registrar, an objection to a proposed variety denomination is justified or if the applicant has not responded to the objection within the term set for such purposes, the registrar shall give the applicant a term for submission of a new proposal for the variety denomination pursuant to the procedure provided in subsection 19 (3) of this Act.

§ 21. Approval of variety denomination

If a variety denomination conforms to the requirements of this Act, the registrar shall make a decision whereby the variety denomination is approved.

§ 22. Registration of variety and variety certificate

(1) If a variety conforms to the requirements of variety denomination, distinctness, uniformity and stability, the registrar shall make a decision to approve the variety and shall issue a variety certificate.

(2) The registrar shall make an entry in the state Plant Varieties Register on the day of making the decision on approval of a variety.

(3) The Minister of Agriculture shall establish the requirements for the content of variety certificates.

§ 23. Change of variety denomination

(1) A change of a variety denomination approved by the registrar or entered in the state Plant Varieties Register is commenced:

1) on the decision of the registrar if after approval of the variety denomination, making the decision on registration of the variety and entry thereof in the state Plant Varieties

Register it becomes evident that the variety denomination does not meet the requirements provided for in this Act;

2) at the request of the holder of the plant variety right, if there is good reason to change the variety denomination;

3) at the request of an interested person if a violation of the rights of the person has been established by a court judgment.

(2) In the case specified in subsection (1) of this section, the holder of the plant variety right shall submit a new proposal for the variety denomination. The conformity of the new variety denomination shall be verified at the dates and pursuant to the procedure provided in this Division. A new variety denomination enters into force on the date of entry thereof in the register.

Division 2

Variety List and Procedure for Entry in Variety List

§ 24. Variety List

(1) The Variety List is a list of varieties of agricultural plant species and vegetable species subject to entry in the Variety List whose seed and propagating material is subject to certification and may be marketed.

(2) In Estonia, it is also permitted to certify and market the seed and propagating material of varieties entered in the Common catalogue of varieties of agricultural plant species or in the Common catalogue of varieties of vegetable species (hereinafter both collectively referred to as the Common catalogue of varieties of agricultural plant and vegetable species).

(3) Varieties of cereals, fodder crops, oil crops, fibre crops, vegetables, beets and potatoes are included in the Variety List. The Variety List is compiled by the registrar.

(4) Varieties of agricultural plant and vegetable species not included in the Common catalogue of varieties of agricultural plant and vegetable species may also be entered in the

Variety List. The seed of the varieties of species subject to such certification shall be certified in Estonia.

(5) Varieties intended for utilisation as plant genetic resources may also be entered in the Variety List.

§ 25. Entry in Variety List

(1) Entry of a variety in the Variety List is a procedure for establishing the conformity of the variety to the requirements provided in § 10 of this Act and for determining the variety's value for cultivation and use.

(2) A conforming variety is entered in the Variety List on the basis of an application of the holder of the plant variety right or of the maintainer of the variety. The registrar shall publish the information concerning the received applications on its website and in the official publication of the Plant Production Inspectorate.

(3) For the purposes of this Act, the maintainer of a variety is the holder of the plant variety right or the person who, upon registration of the variety, undertakes to guarantee the maintenance of the variety.

(4) The Variety List and a list of maintainers of varieties included in the Variety List shall be published on the website of the registrar and in the official publication of the Plant Production Inspectorate. Genetically modified varieties entered in the Variety List shall be correspondingly designated.

(5) The registrar shall inform the European Commission of the varieties included in the Variety List as well as of any changes to other data in the Variety List. The Variety List is amended according to the applications received by the registrar and the decisions made based on the results of conducted trials.

§ 26. Requirements for varieties entered in Variety List

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

- 1) the variety conforms to the requirements of distinctness, uniformity and stability and the requirements for variety denominations provided in § 15 of this Act;
 - 2) the variety has satisfactory value for cultivation and use which has been determined by way of state trials for the agricultural value of cultivation and use (hereinafter trials for the agricultural value of cultivation and use).
- (2) Varieties of grass plants intended for cultivation of lawn and varieties of vegetable species are entered in the Variety List if such species conform to the requirements provided in clause (1) 1) of this section.
 - (3) If a variety constituent used for creating hybrid varieties conforms to the requirements provided in clause (1) 1) of this section, it shall be included in the Variety List under the variety denomination of the constituent.
 - (4) The types of hybrid varieties specified in subsection (3) of this section and inbred lines by groups of agricultural plant and vegetable species shall be established by the Minister of Agriculture.
 - (5) Varieties of agricultural plant and vegetable species intended for utilisation as plant genetic resources shall be entered in the Variety List if they conform to the requirements set for such varieties.
 - (6) The conformity of a variety to the requirements for varieties of agricultural plant and vegetable species intended for utilisation as plant genetic resources shall be established by the registrar.
 - (7) A list of varieties of agricultural plant and vegetable species intended for utilisation as plant genetic resources, the requirements set for such varieties by groups of plant species and the requirements for the marketing thereof may be established by the Minister of Agriculture.

§ 27. Organisation and performance of trials for the agricultural value of cultivation and use

- (1) In order to establish the cultivation value of a variety, the registrar shall organise trials for the agricultural value of cultivation and use.

- (2) Trials for the agricultural value of cultivation and use are carried out under the supervision of the registrar. The registrar shall forward the documents necessary for the performance of trials for the agricultural value of cultivation and use to the person carrying out the trials.
- (3) Trials for the agricultural value of cultivation and use for determining the value for cultivation and use of a variety shall be performed in adherence to the methodology for trials for the agricultural value of cultivation and use elaborated by the registrar and approved by the person carrying out the trials, and the cultivation value received as a result of the trials shall be compared to the cultivation value of standard varieties.
- (4) The registrar shall set the applicant a term for delivering the material necessary for the performance of the trials for the agricultural value of cultivation and use.
- (5) Trials for the agricultural value of cultivation and use shall be carried out in a place and during the period prescribed by the registrar.
- (6) Direct costs related to the performance of 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.
- (7) The procedure for performance of trials for the agricultural value of cultivation and use may be established by the Minister of Agriculture.

§ 28. Procedure for entry in Variety List and maintenance in Variety List

- (1) A report shall be prepared concerning the results of the trials for the agricultural value of cultivation and use and submitted to the registrar.
- (2) Based on the results of trials for the agricultural value of cultivation and use and taking account of the value for cultivation and use of a variety, the registrar shall make a decision on the entry of a variety in the Variety List or a decision to refuse to enter a variety in the Variety List by 31 December of the year of receipt of the report concerning the trials for the agricultural value of cultivation and use of the last year of trials.
- (3) A variety is maintained in the Variety List for ten calendar years.

(4) The procedure for entry of a variety in the variety list and the list of plant varieties subject to entry in the Variety List shall be established by the Minister of Agriculture.

§ 29. Requirements for maintenance of varieties of agricultural and vegetable species

(1) During the time a variety of an agricultural or vegetable species is included in the Variety List, the variety must conform to the requirements regarding the distinctness, uniformity and stability of the variety (hereinafter maintenance of variety). The maintenance of a variety of an agricultural or vegetable species entered in the Variety List shall be guaranteed by the maintainer of the variety.

(2) In order to exercise supervision over the maintenance of a variety, the maintainer of the variety shall collect and store information on the production of the seed and propagating material belonging to the previous generations of the basic seed of the variety included in the Variety List as well as other information and documents pertaining to the maintenance of the variety.

(3) The maintainer of a variety shall present, by the deadline and at the place prescribed by the registrar, information and documents pertaining to the maintenance of the variety together with the seed or a sample, specimen or variety constituent of propagating material of the variety necessary for performing a test or replacing a standard sample. Standard samples are stored in adherence to the instructions of the Organisation for Economic Co-operation and Development (hereinafter OECD).

(4) The minimum requirements for the characteristics of agricultural plant and vegetable species and the requirements for maintenance checks of varieties performed in the course of supervision shall be established by the Minister of Agriculture taking account, in addition to the requirements provided by the legislation of the European Union, also of the requirements of the instructions for registration trials issued by the CPVO and UPOV.

§ 30. Extension of term of maintenance of variety in Variety List

(1) Based on the request of an applicant, the registrar may extend the term for maintaining a variety in the Variety List for up to ten years after the day following the date of expiry of the

term for maintaining the variety in the Variety List if it is established that the variety of the agricultural plant or vegetable species continues to exist.

(2) For extension of the term for maintaining a variety in the Variety List, the applicant must submit the request specified in subsection (1) of this section to the registrar two years prior to the date provided in subsection 28 (3) of this Act.

(3) The registrar shall make a decision on extension of the term for maintaining a variety in the Variety List or a decision to refuse to extend the term for maintaining a variety in the Variety List within ten working days after receiving the results of the maintenance checks of the variety.

§ 31. Exclusion from Variety List

(1) A variety is excluded from the variety List if:

- 1) the variety does not meet the requirements of this Act;
- 2) incorrect information has been knowingly submitted in the application for entry of the variety in the Variety List or for performance of the registration trials;
- 3) the state fee has not been paid for the year of maintaining the variety in the Variety List;
- 4) the term for maintaining the variety in the Variety List has expired;
- 5) the applicant for the plant variety has submitted a corresponding application.

(2) If a circumstance specified in clauses (1) 1)–3) or 5) of this section becomes evident, the registrar shall make a decision on exclusion from the Variety List within ten working days after becoming aware of the circumstance set out in clauses (1) 1)–3) or receiving the application specified in clause 5) of this section.

§ 32. Performance of production trials with variety concerning which application for entry in Variety Gazette has been submitted

(1) A person applying for entry of a variety of an agricultural species in the Variety List in Estonia or a person applying for entry of a variety of a vegetable species in the Variety List in Estonia or another Member State may conduct a production trial of the variety in order to establish its cultivation value under production conditions, and to market the seed of the variety for the purposes of carrying out the trial.

(2) The quantity of seed necessary for carrying out the production trial specified in subsection (1) of this section may be marketed with the registrar's permission granted in accordance to Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted (OJ L 362, 9.12.2004, pp. 21–27).

(3) A person specified in subsection (1) of this section wishing to obtain the permission shall submit a corresponding application to the registrar. The registrar shall make a decision on granting permission for a production trial or a decision to refuse to grant permission for a production trial within thirty days after receiving the application.

(4) The maximum quantities of seed and seed potatoes permitted for performance of production trials shall be established by the Minister of Agriculture.

§ 33. List of recommended varieties of agricultural plants

(1) The registrar may prepare a list of recommended varieties of agricultural plants on the basis of the varieties of agricultural plants entered in the Variety List. The list of recommended varieties of agricultural plants is a list of varieties of agricultural plants which, as a result of additional testing, are proven to have better characteristics for growing in the soil and climate conditions of Estonia or, depending on the plant species, in artificial conditions.

(2) The holder of a plant variety right wishing to enter a variety in the list of recommended varieties of agricultural plants shall submit an application to this effect to the registrar.

(3) The registrar shall perform additional tests based on a submitted application. Direct costs related to the conduct of additional tests shall be paid by the applicant on the basis of an invoice submitted to the applicant.

(4) The Minister of Agriculture may establish the requirements for compilation of the list of recommended varieties of agricultural plants.

(5) The list of recommended varieties of agricultural plants shall be published on the website of the registrar and in the official publication of the Plant Production Inspectorate.

§ 34. Lists of varieties of fruit, berry and ornamental plant species

(1) Suppliers of fruit, berry and ornamental plant species shall compile a list of varieties produced, processed or marketed thereby.

(2) A list specified in subsection (1) of this section need not be compiled if a variety is:

- 1) known;
- 2) entered in the state Plant Varieties Register;
- 3) protected.

(3) The requirements for compilation of lists of varieties of fruit, berry and ornamental plant species shall be established by the Minister of Agriculture.

Division 3

Plant Variety Right

§ 35. Nature of plant variety right

(1) A plant variety right is granted with respect to all plant genera and species, including hybrids between genera or species. A plant variety right shall not be granted with respect to varieties which have been granted a plant variety right of the European Union pursuant to

Council Regulation 2100/94 on Community plant variety rights (OJ L 227, 01.09.1994, pp. 1–30).

(2) Based on a plant variety right, the holder of the plant variety right has the exclusive right, and other persons duly authorised by the holder of the plant variety right have the right to:

- 1) produce the seed and propagating and cultivating material of the variety;
- 2) market the seed and propagating and cultivating material of the variety;
- 3) import the seed and propagating and cultivating material of the variety;
- 4) export the seed and propagating and cultivating material of the variety;
- 5) possess the seed and propagating and cultivating material of the variety for the purposes listed in clauses 1)–4) of this section.

(3) A variety protected by a variety right may be used without authorisation by the holder of the plant variety right:

- 1) in scientific research and in official trials conducted for the purposes of comparison;
- 2) as parental material for breeding new varieties;
- 3) for personal use with no commercial purposes.

§ 36. Scope of plant variety right

(1) The rights of the holder of a plant variety right specified in subsection 35 (2) of this Act also apply to varieties:

- 1) which are essentially derived from a variety protected by a plant variety right if the protected variety is not an essentially derived variety;
- 2) which are not clearly distinguishable from the protected variety according to subsection 11 (1) of this Act;
- 3) where the protected variety is used repeatedly for production of the seed or propagating or cultivating material of the variety.

(2) An operator may grow small quantities of seed and propagating material of protected varieties of certain plant species, except for the seed and propagating material of hybrid and synthetic species, in order to obtain agricultural produce, and to produce such seed and material for use within its own enterprise without having to enter into a licence agreement and without paying a licence fee.

(3) For the purposes of this Act, growing in small quantities shall mean the growing of the seed and propagating material of protected varieties in cases where up to 10 hectares of arable land is used for growing the agricultural species, and up to 1 hectare of arable land is used for growing potatoes. Grassland which are in use or are intended for use for a period over five years shall not be included in the arable land used for growing small quantities of plants.

(4) The Minister of Agriculture shall establish the list of the plant species specified in subsection (2) of this section.

(5) An operator who grows, for obtaining agricultural produce, the seed or propagating material of a plant species included in the list established based on subsection (4) of this section within its enterprise on an area larger than the area provided in subsection (3) of this section must pay a reasonable fee to the holder of the corresponding plant variety right. Such reasonable fee must be significantly lower than the licence fee payable by a producer of the seed of the variety of the same plant species or by a supplier engaging in the production of the propagating material of the variety of the same plant species.

(6) The holder of a plant variety right and the operator specified in subsection (5) of this section or a non-profit association of such operators shall agree on a reasonable fee. If the size of the fee has not been agreed upon, the holder of the plant variety right may request that the operator pay a fee which does not exceed one half of the licence fee payable by a producer of the seed of the variety of the same plant species or by a supplier engaging in the production of the propagating material of the variety of the same plant species.

(7) An operator growing small quantities of a protected variety and an operator specified in subsection (5) of this section shall keep record of their activities and inform the holder of the plant variety right or the registrar of the quantities of seed or propagating material derived from the protected variety at their request.

§ 37. Conditions for grant of plant variety right

A plant variety right is granted if the variety conforms to the requirements of § 10 of this Act, is new and a Community plant variety right has not been granted with respect to the variety.

§ 38. Novelty

(1) A variety is deemed to be new if the holder of the plant variety right or another person authorised by the holder has not, by the date of submission of the application to the registrar, marketed the seed, propagating material, cultivating material, constituents or plant material of the variety, or used it in another manner longer than for:

- 1) one year in the territory of the Republic of Estonia;
- 2) four years within the territory of another state;
- 3) six years within the territory of another state in the case of trees and grapevine.

(2) A variety is also deemed to be new if

- 1) the variety has been marketed or used in another manner without the knowledge of the holder of the plant variety right and in violation of the rights of the holder of the right;
- 2) the variety is marketed for the purpose of transfer of the right of ownership in the variety;
- 3) the holder of the plant variety right has entered into a contract for the production of the seed, propagating or cultivating material of the variety but the variety has not been marketed or used for the production of hybrid varieties;
- 4) the variety has been used in scientific research, including in tests or trials;
- 5) the variety is displayed at an official exhibition or described in an exhibition catalogue;
- 6) the plant material produced or harvested in the manner indicated in clauses 3) and 4) of this subsection is marketed as a by-product without variety identification.

§ 39. Conditions for grant of plant variety right

- (1) Grant of plant variety right is a procedure in the course of which the registrar verifies the conformity of a variety to the requirements for varieties pertaining to their distinctness, uniformity, stability, variety denomination and novelty, establishes the fact that a Community plant variety right has not been granted with respect to the variety and makes an entry concerning the grant of the plant variety right with respect to the variety in the state Plant Varieties Register.
- (2) The application for a plant variety right shall be submitted by the owner of the variety. If there are several owners of a variety, they shall submit a joint application with an indication of the percentage of the share of each owner.
- (3) The registrar shall publish applications for plant variety rights on its website and in the official publication of the Plant Production Inspectorate.

§ 40. Transfer of right to apply for plant variety right

- (1) The owner of a variety may transfer, by way of written agreement, the right to apply for a plant variety right to another person.
- (2) A copy of the agreement together with the data of the owner of the variety and the person to whom the right of application was transferred shall be forwarded to the registrar.

§ 41. Provisional protection of variety by variety right

- (1) A variety is deemed to be under provisional protection by variety right from the date of receipt of the application for a plant variety right until the date of making the decision on the grant of the plant variety right or the decision to refuse to grant the plant variety right.
- (2) During the period of provisional protection of a plant variety, the requirements for varieties protected by variety rights provided by this Act apply to the variety.

§ 42. Priority

- (1) Priority is the preferential right of the person who files the first application for protection of a variety by plant variety right or the legal successor of such person to apply for a plant variety right.
- (2) The registrar shall determine the priority of the grant of a variety right concerning a variety by the date of receipt of the applications. If several applications for the grant of a plant variety right for the same variety are received on one day by the registrar, priority shall be determined according to the order in which they are received.
- (3) If the same person has filed, less than one year previously, an application for the grant of a plant variety right with regard to the same variety in another country, the registrar shall determine, at the request of the applicant, the priority of the application as of the date of the receipt of the application by the registrar of the other country. For such purpose, the person shall provide the registrar with a copy of the application for a plant variety right as received by the registrar of the other country together with a translation of the application for the plant variety right into Estonian. The copy shall be certified by the registrar of the other state. A copy of the application for a plant variety right received by the registrar of the other country and a translation of the application into Estonian may be submitted within three months after the date of submission of the application to the registrar.

§ 43. Filing of objections

- (1) An interested person may file a reasoned objection with the registrar within six months after publication of an application for a plant variety right.
- (2) An objection may be made concerning the novelty, distinctness, uniformity or stability of a variety, or concerning the right to apply for variety protection by plant variety right.
- (3) The objector has the right to obtain documents from the registrar in order to prove the facts set out in the objection.
- (4) The registrar shall notify an applicant of a submitted objection by sending a registered letter with advice of delivery within ten working days after receipt of the objection.

§ 44. Response to objection

- (1) Within three months of receipt of an objection, the applicant shall submit a written position concerning the objection which shall set out whether the applicant refuses to amend the application, to amend the application or to withdraw the application. If necessary, the registrar may extend such term.
- (2) The registrar shall forward a response to the objector by sending a registered letter with advice of delivery within ten working days after receipt of the objection.
- (3) The objector shall give written notice within thirty days after receiving the response as to whether the objector wishes to maintain or withdraw the objection. An objection is deemed to be withdrawn if the objector has not given notice by the due date as to whether the objector wishes to maintain or withdraw the objection.
- (4) If the applicant has not responded to an objection by the due date, the application for a plant variety right submitted thereby is deemed to be withdrawn.

§ 45. Decision concerning objection

The registrar shall make a decision on satisfying an objection, organisation of new registration trials or refusal to satisfy an objection within thirty working days after the date specified in subsection 44 (3) of this Act.

§ 46. Grant of plant variety right and refusal to grant plant variety right

- (1) If a variety conforms to the requirements provided by this Act, the registrar shall make a decision on protection of the variety by plant variety right and on the same day, make a corresponding entry in the state Plant Varieties Register.
- (2) If a variety does not conform to the requirements provided by this Act, the registrar shall make a decision on refusal to grant a plant variety right, and the provisional protection of the variety ends on the date of making the decision.
- (3) A variety entered in the state Plant Varieties Register, except for varieties of grape vine and tree species, shall remain under variety protection for twenty five years after the date

of making the decision on protection of the variety by plant variety right. A variety of a grape vine or tree species entered in the state Plant Varieties Register shall remain under variety protection for thirty years after the date of making the decision on protection of the variety by plant variety right.

(4) The validity of a plant variety right is suspended for the time the variety is protected by a Community plant variety right.

(5) A variety protected by plant variety right must be maintained during the term of the plant variety right. Maintenance of a variety protected by plant variety right shall be guaranteed by the holder of the plant variety right. The holder of a plant variety right has the same obligations upon maintaining a variety protected by plant variety right as the maintainer of a variety of an agricultural or vegetable plant species entered in the Variety List.

§ 47. Certificate of plant variety right

(1) The registrar shall issue a certificate of plant variety right to the holder of the plant variety right within ten working days after the date of making the decision of protection of the variety by plant variety right and making a corresponding entry in the state plant variety right register. A certificate of plant variety right is valid during the period the variety is protected by variety right.

(2) In the case a variety is placed under protection by variety right directly after the variety is registered, the certificate of plant variety right substitutes for the variety certificate.

(3) The Minister of Agriculture shall establish the substantive requirements for certificates of plant variety rights.

§ 48. Extension of term of validity of plant variety right

(1) If a variety continues to conform to the requirements of this Act, the registrar may extend the term of validity of the plant variety right for a period of five years as of the day following the date of expiry of the plant variety right based on a written application of the holder of the plant variety right.

(2) In order to have the term of validity of a plant variety right extended, the holder of the plant variety right shall submit a corresponding application to the registrar within two years before the expiry of the term of validity of the plant variety right.

(3) The registrar shall make a decision on extension of the term of validity of a plant variety right or a decision to refuse to extend the term of validity of a plant variety right no later than twenty working days before the expiry of the term of validity of the plant variety right.

§ 49. Premature termination of plant variety right

(1) The registrar shall make a decision to revoke the decision on protection of a variety by variety right if:

- 1) the holder of the plant variety right has submitted a written application to this effect to the registrar;
- 2) a precept has not been complied with by the deadline set by such precept;
- 3) a new proposal for variety denomination has not been submitted during the term prescribed for such purposes;
- 4) the variety is not maintained;
- 5) no state fee has been paid for keeping the variety under plant variety protection.

(2) The date of termination of the plant variety right shall be indicated by the holder of the plant variety right in the application; in the absence of a date of termination, the plant variety right is deemed to expire on the date of receipt of the application.

(3) Based on the proposal of a supervisory official, the registrar shall make a decision to revoke a decision grant of a plant variety right within thirty days after the date of receipt of the application specified in clause (1) 1), becoming aware of the circumstances specified in clauses (1) 2) or 4) or after the date of expiry of the term specified in clause (1) 3) of this section, and shall make a corresponding entry in the state Plant Varieties Register.

§ 50. Retroactive termination of plant variety right

(1) The registrar shall make a decision to retroactively revoke a decision on the grant of a plant variety right on the registrar's own initiative or on the basis of an application of an interested person if after the grant of the plant variety right it becomes evident that:

- 1) the variety did not meet the conditions for novelty and distinctness at the time priority was determined for the plant variety right;
- 2) the variety was granted protection on the basis of documents and the results of a registration trials conducted by a relevant competent authority of a foreign state submitted by the applicant for the plant variety right and did not meet the conditions for uniformity and stability;
- 3) the plant variety right certificate was issued to a person who was not entitled to apply for the plant variety right.

(2) The registrar shall make a decision to retroactively revoke a decision on the grant of a plant variety right within thirty days after the establishment of a circumstance specified in subsection (1) of this section and shall make a corresponding entry in the state Plant Varieties Register.

(3) If a decision on the grant of a plant variety right is revoked retroactively, the plant variety right is deemed to be revoked as of the time it was granted.

§ 51. Transfer of rights of holder of plant variety right

(1) The holder of a plant variety right may transfer the rights attached to the variety to another person.

(2) In the event of the death of the holder of a plant variety right if the holder is a natural person, or the dissolution of the holder of a plant variety right if the holder is a legal person, the rights of the holder of the variety transfer to the successors or legal successor thereof.

(3) In order to amend the data in the register pertaining to the holder of a plant variety right, the person to whom the rights of the holder transfer shall submit a corresponding

application to the registrar, accompanied by a document in proof of transfer or an officially certified copy thereof.

(4) The application specified in subsection (3) of this section shall be filed with the registrar within one year after the date specified in the transaction, or after the date of creation of the right of succession or legal succession. If the rights of the holder of a plant variety right are transferred pursuant to a court judgment, the application shall be filed with the registrar within thirty working days after the date on which the court judgment enters into force.

(5) The registrar shall make a relevant entry in the register within five working days after receiving the application specified in subsection (3) of this section.

(6) The rights of the holder of a plant variety right are deemed to be transferred to another person from the date of transfer of the rights pursuant to a transaction or a court judgment, or from the date of creation of the right of succession or legal succession.

(7) A person to whom the rights of the holder of a plant variety right transfer on the basis and pursuant to the provisions of this section may commence the performance of the rights of the holder of a plant variety right as of the date of making the register entry specified in subsection (5) of this section.

Division 4

Licence and Compulsory Licence

§ 52. Licence

(1) The holder of a plant variety right (licencor) may transfer the rights of the holder of the plant variety right specified in subsection 35 (2) of this Act to another person (licencee) by way of a written licence agreement (hereinafter licence).

(2) By transfer of the rights of the holder of a plant variety right to another person, the rights and obligations arising from the licence shall also transfer to such person.

§ 53. Compulsory licence

(1) A compulsory licence is a non-exclusive licence issued by the Minister of Agriculture in cases where the holder of a plant variety right refuses to issue a licence to a person interested in and able to use the variety protected by plant variety right if:

- 1) the use of the protected variety is in the public interest, or
- 2) the licensor has not, within three years after a plant variety right was issued concerning the variety, used the variety or issued a licence for the use of the variety by another person.

(2) In order to obtain a compulsory licence, the person interested in using the variety protected by plant variety right shall submit a relevant application to the Minister of Agriculture.

(3) An application for a compulsory licence shall set out the information in proof of the facts specified in subsection (1) of this section.

§ 54. Issue of compulsory licence

(1) Based on the information included in an application for a compulsory licence, the Minister of Agriculture shall assess whether the issue of the compulsory licence is justified.

(2) The Minister of Agriculture shall make a decision to issue a compulsory licence or to refuse to issue a compulsory licence within thirty working days after the date of receipt of the application.

(3) The right to exploit a protected variety arising from a compulsory licence is created as of the date of making of the relevant entry in the state Plant Varieties Register.

(4) The issue of a compulsory licence does not prevent the holder of the plant variety right from exploiting the variety protected by the variety right or from issuing a licence with respect to the variety to another person.

§ 55. Terms and conditions of compulsory licence

(1) A compulsory licence shall set out the extent of the use of the rights attached to the variety protected by variety right subject to transfer as well as the territory where those rights may be used, and specify the licence fee which the licensee must pay to the holder of the plant variety right. The licence fee shall be based on the average licence fee applied for relevant plant species. In the case of a compulsory licence for exploitation of an essentially derived variety, payment of a fee to the holder of the initial variety right shall also be prescribed.

(2) The holder of a plant variety right to variety for the exploitation of which a compulsory licence has been issued is required to transfer the seed or propagating material of the variety to the licensee in a quantity necessary for propagation (multiplication) of the variety for the market price of a similar variety.

(3) A compulsory licence is issued for a term of two to four years. If the circumstances which constituted the basis for issue of a compulsory licence continue to exist at the time of expiry of the term of the compulsory licence, the Minister of Agriculture has the right to grant a new compulsory licence for exploitation of the variety with the term of four years based on the application of the licensee.

§ 56. Revocation of compulsory licence

The Minister of Agriculture shall deem a compulsory licence invalid before the date of expiry of the compulsory licence if:

- 1) the licensee violates the terms of the compulsory licence;
- 2) the need for the compulsory licence ceases to exist.

Division 5

State Plant Varieties Register

§ 57. Foundation and organisation of activities of state Plant Varieties Register

(1) The state Plant Varieties Register (hereinafter register) is a national register established by the Government of the Republic on the proposal of the Minister of Agriculture. The statutes of the register shall be enacted by the Government of the Republic.

(2) The chief processor of the register is the Ministry of Agriculture and the authorised processor of the register is the Plant Production Inspectorate.

§ 58. Information subject to entry in register

(1) Information concerning a variety prescribed by this Act shall be entered in the register.

(2) Register entries are made based on a submitted application or a decision of the registrar.

§ 59. Refusal to make register entry

The registrar shall refuse to make an entry in the register if:

- 1) the state fee is not paid;
- 2) the applicant has knowingly provided incorrect information to the registrar or a supervisory official, or has unlawfully influenced the registrar or a supervisory official.

§ 60. Amendment of register entry

(1) In the case of a change to the data which constitutes the basis for a register entry, the person shall give the registrar written notification thereof within fourteen days after the date on which the change to the data took place.

(2) The registrar shall make a decision to amend a register entry within five working days after the date of receipt of the relevant notice.

§ 61. Protection and disclosure of data entered in register

(1) Data entered in the register shall be public, except for data not subject to disclosure, and shall be published on the web page of the registrar or on paper, in both cases taking account of the requirements of the Personal Data Protection Act.

(2) Access to data not subject to disclosure and private personal data specified in the Personal Data Protection Act shall be restricted, and such data may be used for official purposes only by the head of the supervisory authority or a supervisory official appointed by the head of the authority.

(3) For the purposes of this Act, data not subject to disclosure shall not be data pertaining to the danger which a variety poses to the environment, human health or plant health.

(4) Information in the register shall be preserved permanently.

Chapter 3

Production and Certification

§ 62. Production

(1) For the purposes of this Act, production of seed and propagating material shall mean the propagation of seed or propagating material by vegetative propagation or other methods as well as the processing, storage and packaging of seed or propagating material for marketing purposes.

(2) For the purposes of this Act, production of cultivating material shall mean the compilation of seed lots of forest trees for marketing purposes as well as the growing of planting material from seed, plant parts or plants.

§ 63. Suppliers of propagating and cultivating material

For the purposes of this Act, a supplier of propagating and cultivating material shall mean a natural or legal person entered in the plant health register pursuant to the Plant Protection Act engaged in the propagation, production, storage, processing or marketing of propagating and cultivating material.

§ 64. Requirements for suppliers of propagating and cultivating material

- (1) A person wishing to engage in the production of cultivating material or the micropropagation of plant species shall hold a corresponding activity licence.
- (2) Suppliers of propagating and cultivating material shall take all necessary measures to guarantee the production of propagating and cultivating material in adherence to the requirements of this Act and the conformity of the propagating and cultivating material.
- (3) In order to comply with the requirement specified in subsection (2) of this section, a supplier of propagating material of horticultural plants or a supplier of cultivating material engaged in the production of plants of forest trees shall determine, based on the production method used, the main critical points of the production process as well as the measures applied in such points of the process, shall record the above and guarantee the use of such measures (hereinafter own checks program).
- (4) The own checks program of suppliers of cultivating material shall be in compliance with the production method of the cultivating material and include requirements and an action plan for the control of pests reducing the quality of the cultivating material and of hazardous pests, and for the evaluation of the quality of the plants.
- (5) The requirements for the own checks program of suppliers of propagating material of horticultural plants shall be established by the Minister of Agriculture.
- (6) The requirements for the own checks program of suppliers of cultivating material engaged in the production of plants of forest trees shall be established by the Minister of the Environment.

§ 65. Production requirements and requirements for plots of land, buildings, construction works and plant material used for production

- (1) A supplier shall guarantee that propagating or cultivating material is produced:
 - 1) on a plot of land, or in a building or construction works prescribed for production, and shall prevent the contamination of the plants by hazardous pests or pests reducing the quality of the produced plant species;
 - 2) in the case of cultivating material, by using technology suitable for such purposes;
 - 3) in the case of micropropagation, in a laboratory conforming to the requirements.
- (2) Propagating and cultivation material produced by way of micropropagation shall have identity and purity of species and variety.
- (3) For production of seed in seed orchards, progeny of plus-trees recognised by the Centre of Forest Protection and Silviculture shall be used upon foundation of the seed-orchards.
- (4) A list of pests which reduce the quality of seed or propagating material of a plant species or a group of plant species and their maximum permitted quantities shall be established by the Minister of Agriculture.
- (5) The Minister of Agriculture shall establish the requirements for the micropropagation of propagating material and for laboratories engaging in micropropagation.
- (6) The requirements for laboratories engaging in micropropagation of cultivating material shall be established by the Minister of the Environment.
- (7) The requirements for the production of seed and propagating material shall be established by the Minister of Agriculture.
- (8) The requirements provided in this section apply to the production of parents of seed, propagating and cultivating material of hybrid species, and to the production of rootstock of propagating and cultivating material.

§ 66. Activity licence for production of cultivating material and procedure for issue thereof

(1) A person wishing to engage in the production of cultivating material shall submit a corresponding application to the Centre of Forest Protection and Silviculture in order to obtain an activity licence. A person must obtain an activity licence before commencing the production of cultivating material.

(2) In order to decide on the issue of an activity licence for production of cultivating material, the Centre of Forest Protection and Silviculture shall assess the conformity of the applicant and the applicant's enterprise to the requirements of this Act on the basis of the application and on site inspection of the enterprise, based on the cultivating material the production of which the applicant wishes to commence. A supervisory official shall prepare an inspection report concerning on-site inspection of an enterprise.

(3) The Centre of Forest Protection and Silviculture shall make a decision to issue or a decision to refuse to issue an activity licence for production of cultivating material within fifteen working days after the date of receipt of the corresponding application.

(4) The Centre of Forest Protection and Silviculture shall refuse to issue an activity licence for production of cultivating material to an applicant if:

- 1) the enterprise does not meet the requirements;
- 2) the applicant has knowingly submitted false information;
- 3) the applicant has unlawfully influenced a supervisory official.

(5) An activity licence for the production of cultivating material is issued for a term of five years. The Centre of Forest Protection and Silviculture may extend the term of an activity licence based on a written application of the holder of the activity licence for a period of up to five years as of the day after the date of expiry of the activity licence if the holder of the activity licence and the enterprise thereof continue to conform to the requirements of this Act.

(6) For extension of an activity licence for the production of cultivating material, the holder of the activity licence shall submit a corresponding application to the Centre of Forest Protection and Silviculture at least thirty days prior to the expiry of the term of validity of the licence. The Centre of Forest Protection and Silviculture shall make a decision to issue or a

decision to refuse to issue an activity licence within fifteen working days after the date of receipt of the corresponding application.

(7) If the holder of an activity licence for the production of cultivating material wishes to engage in growing cultivating material of a tree species other than that for which the activity licence was issued, the holder of the licence must apply for amendment of the activity licence for the production of cultivating material.

(8) The Minister of the Environment shall establish the requirements for an application for an activity licence for the production of cultivating material and the contents of such activity licence.

§ 67. Suspension of activity licence for production of cultivating material

(1) An activity licence for the production of cultivating material shall be suspended in part or in full until:

- 1) the circumstances of the violation of this Act are clarified;
- 2) the precept is complied with, if the conformity of the cultivating material produced or intermediated by the enterprise cannot be ensured due to the circumstances temporarily prevailing in the enterprise.

(2) The Centre of Forest Protection and Silviculture shall make a decision to suspend an activity licence for the production of cultivating material in part or in full within ten working days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the suspension of the activity licence for the production of cultivating material, the supplier shall suspend the production of the cultivating material to the extent specified in the decision.

(4) The supplier shall inform the supervisory authority of the elimination of the circumstances which constituted the basis for the suspension of the activity licence for the production of cultivating material. The supervisory authority shall verify the correctness of the submitted information.

(5) If the circumstances which constituted the basis for the suspension of the activity licence for the production of cultivating material are eliminated, the Centre of Forest Protection and Silviculture shall restore the validity of the activity licence for the production of cultivating material.

§ 68. Revocation of activity licence for production of cultivating material

(1) An activity licence for production of cultivating material shall be revoked in part or in full, if the supplier:

- 1) has submitted a corresponding application;
- 2) has knowingly submitted incorrect information to the supervisory authority or has unlawfully influenced a supervisory official;
- 3) has repeatedly failed to eliminate, by the due date specified in the precept, any deficiencies discovered in the course of inspection;
- 4) is unable to meet the requirements arising from this Act due to permanent conditions prevailing in the enterprise;
- 5) has terminated its activities.

(2) The Centre of Forest Protection and Silviculture shall make a decision to revoke an activity licence for the production of cultivating material in part or in full within ten days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the revocation of the activity licence for the production of cultivating material, the supplier shall suspend the production of the cultivating material to the extent specified in the decision.

§ 69. Activity licence for micropropagation of plant species and procedure for issue thereof

(1) A person wishing to engage in the micropropagation of a plant species shall submit an application for an activity licence concerning propagating material to the Plant Production Inspectorate and concerning the plants of forest trees to the Centre of Forest Protection and

Silviculture (hereinafter together referred to as supervisory authority). A person must obtain an activity licence before commencing the micropropagation of plants of forest trees.

(2) In order to decide on the grant of an activity licence for the micropropagation of a plant species, the supervisory authority shall assess the conformity of the applicant and the applicant's enterprise to the requirements of this Act on the basis of the application and on-site inspection of the enterprise, with regard to the plant species the micropropagation of which the applicant wishes to commence. An inspection report shall be prepared concerning on-site inspection of an enterprise

(3) If an enterprise is found to be conforming, the supervisory authority shall issue an activity licence for the micropropagation of a plant species.

(4) The supervisory authority shall refuse to issue an activity licence for the micropropagation of a plant species, if:

- 1) the enterprise does not meet the requirements;
- 2) the applicant has knowingly submitted false information;
- 3) the applicant has unlawfully influenced a supervisory official.

(5) The supervisory authority shall make a decision to issue an activity licence for the micropropagation of a plant species or a decision to refuse to issue such licence within thirty working days after the date of receipt of the corresponding application.

(6) An activity licence for the micropropagation of a plant species is issued for a term of three years. The supervisory authority may extend the term of an activity licence based on a written application of the holder of the activity licence for a period of up to three years as of the day after the date of expiry of the activity licence if the holder of the activity licence and the enterprise thereof continue to conform to the requirements of this Act.

(7) For extension of an activity licence for the micropropagation of a plant species, the holder of the activity licence shall submit a corresponding application to the supervisory authority at least thirty days prior to the expiry of the term of validity of the licence. An application for extension of an activity licence shall be processed pursuant to the same procedure and within the same term as an application for an activity licence.

(8) If the holder of an activity licence for the micropropagation of a plant species wishes to engage in the micropropagation of a plant species other than that for the micropropagation of which the activity licence was issued, the supplier must apply for amendment of the activity licence for the micropropagation of the plant species.

§ 70. Suspension of activity licence for micropropagation of plant species

(1) An activity licence for the micropropagation of a plant species shall be suspended in part or in full until:

- 1) the circumstances of the violation of this Act are clarified;
- 2) the precept is complied with, if the conformity of the propagating or cultivating material produced or intermediated by the enterprise cannot be ensured due to the circumstances temporarily prevailing in the enterprise.

(2) The supervisory authority shall make a decision to suspend an activity licence for the micropropagation of a plant species in part or in full within ten working days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the suspension of the activity licence for the micropropagation of a plant species, the supplier shall suspend the micropropagation of the plant species to the extent specified in the decision.

(4) The supplier shall inform the supervisory authority of the elimination of the circumstances which constituted the basis for the suspension of the activity licence for the micropropagation of a plant species. The supervisory authority shall verify the correctness of the submitted information.

(5) If the circumstances which constituted the basis for the suspension of the activity licence for the micropropagation of a plant species are eliminated, the supervisory authority shall restore the validity of the activity licence for the micropropagation of a plant species.

§ 71. Revocation of activity licence for micropropagation of plant species

(1) An activity licence for the micropropagation of plant species shall be revoked in part or in full, if the supplier:

- 1) has submitted a corresponding application;
- 2) has knowingly submitted incorrect information to the supervisory authority or has unlawfully influenced a supervisory official;
- 3) has repeatedly failed to eliminate, by the due date specified in the precept, any deficiencies discovered in the course of inspection;
- 4) is unable to meet the requirements arising from this Act due to permanent conditions prevailing in the enterprise;
- 5) has terminated its activities.

(2) The head of the supervisory authority shall make a decision to revoke an activity licence for the micropropagation of a plant species in part or in full within ten working days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the revocation of the activity licence for the micropropagation of a plant species, the supplier shall suspend the micropropagation of the plant species to the extent specified in the decision.

§ 72. Requirements for persons producing mixtures of fodder plant seeds

(1) The enterprise of a person wishing to engage in the production of a mixture of fodder plant seed must have appropriate equipment and facilities for the production of such mixture and other necessary means. The enterprise shall have a technological layout and description of the production process of the mixture of fodder plant seed and an employee whose duty is to guarantee that production is carried out in adherence to the technological layout and description.

(2) A person wishing to engage in the production of a mixture of fodder plant seed shall inform the Plant Production Inspectorate of such activity. The application shall be submitted

at least thirty days before the production of a mixture of fodder plant seed is commenced, changed or terminated.

(3) The Plant Production Inspectorate shall publish information concerning a person engaged in the production of mixtures of fodder plant seeds, the enterprise thereof, the name of the produced mixture of fodder plant seeds, and the species and varieties of fodder plants contained in the mixture on its website. At the same time, a mixture of fodder plant seed is given a non-recurrent code which designates the number of the lot of the seed mixture and sets out the content of the seed mixture, specifying the species and varieties used.

(4) A person engaged in the production of a mixture of fodder plant seed shall keep record of the species, varieties and quantities of plants used in production, the quantities of the mixture produced, and the species and varieties contained in the mixture.

§ 73. Certification of seed and propagating or cultivating material

(1) Certification of seed and propagating material means ascertaining the descent, and the identity, purity and quality of the species and variety of the seed or propagating material, and assessment of the conformity thereof to the plant health requirements in accordance with internationally established requirements, and the sealing and marking of the packaging of certified seed and seed potatoes under the supervision of the Plant Production Inspectorate. Depending on the plant species or group of species, the field inspection, analysing of samples and post-control field trials shall be conducted in the course of certification.

(2) Field inspection shall mean the establishment of the descent of seed and propagating material, and the identity and purity of the species and variety of the growing seedling stands.

(3) Field inspection is carried out by a supervisory official or, for particular species and categories of plants, by an authorised field inspector.

(4) Samples are taken by a supervisory official or a person authorised by the supervisory authority to take samples.

(5) The Minister of Agriculture shall establish the sizes of samples and the requirements for assessment of the conformity of seed and propagating material.

(6) For the purposes of this Act, certification of cultivating material shall mean the analysing of the seed of forest trees by an accredited laboratory using internationally recognised methods, and the assessment of the conformity to established quality requirements and the descent of other plant material, and the issue of document in proof of certification by the Centre of Forest Protection and Silviculture, and the sealing of the sales packaging of certified seed under the supervision of the Centre of Forest Protection and Silviculture.

(7) The procedure and requirements for the certification of seed and propagating material by plant species or groups of plant species shall be established by the Minister of Agriculture.

(8) The procedure for the certification of seed and propagating material shall be established by the Minister of the Environment.

§ 74. Organisation and extent of certification

(1) The certification of seed and propagating material is organised by the Plant Production Inspectorate on the basis of an application by owner of the seed or propagating material or the representative or maintainer thereof. The certification of cultivating material is organised by the Centre of Forest Protection and Silviculture on the basis of an application by a supplier producing or marketing the cultivating material.

(2) Seed and seed potatoes of the varieties entered in the Variety List or the Common catalogue of varieties of agricultural plant and vegetable species, and propagating material and cultivating material of the varieties of the fruit and berry species entered in the list specified in subsection 34 (1) of this Act is subject to certification.

(3) The seed and seed potatoes of a variety excluded from the Variety List may be certified and marketed until 30 June of the third year after the date of exclusion of the variety from the Variety List.

(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 list of agricultural and horticultural plant species subject to certification shall be established by the Minister of Agriculture.

(6) The list of species of forest trees subject to certification shall be established by the Minister of the Environment.

§ 75. Document attesting certification and validity thereof

(1) 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 Centre of Forest Protection and Silviculture.

(2) The requirements for the content of a document attesting the certification of seed and propagating material by plant species or groups of plant species shall be established by the Minister of Agriculture.

(3) The requirements for the content of a document attesting the certification of cultivating material shall be established by the Minister of the Environment.

(4) The term of validity of a document attesting the certification of seed and propagating material of agricultural and horticultural plants by plant species or groups of plant species shall be established by the Minister of Agriculture.

(5) The term of validity of a document attesting the certification of cultivating material shall be determined by the issuer of the document depending on the quality of the lot of cultivating material.

(6) The term of validity of a document attesting the certification of seed may be extended at the request of the owner of the seed lot. For such purpose, the owner of a seed lot shall submit a corresponding application to the Plant Production Inspectorate or, in the case of cultivating material, to the Centre of Forest Protection and Silviculture within thirty days before the expiry of the document attesting certification.

(7) If a seed lot conforms to the requirements established for the germination rate of certified seeds, the Plant Production Inspectorate or the Centre of Forest Protection and Silviculture shall extend the term of validity of the document attesting certification by making a notice on extension on the document.

§ 76. Other seed and propagating or cultivating material

- (1) For the purposes of this Act, other seed shall mean conforming standard or commercial seed of plant species subject to certification which may be placed on the market, or conforming seed of plant species not subject to certification.
- (2) For the purposes of this Act, other propagating and cultivating material shall mean uncertified propagating and cultivating material of plant species subject to certification, and conforming propagating and cultivating material of plant species not subject to certification.
- (3) The conformity of other seed to the quality requirements shall be guaranteed by the producer or distributor of the seed. The conformity of other propagating and cultivating material to the quality requirements shall be guaranteed by the supplier thereof.
- (4) The quality requirements for other seed and propagating material by plant species or groups of plant species shall be established by the Minister of Agriculture.
- (5) The quality requirements for other cultivating material shall be established by the Minister of the Environment.
- (6) In the case of seed and propagating and cultivating material of hybrids, the quality requirements provided for in this section apply to all parents and components of a variety used for the production of seed or propagating material.

§ 77. Maintenance of records on production

- (1) A supplier engaged in the production of propagating or cultivating material:
 - 1) shall have a land use plan, or a field record established by the Water Act concerning a plot of land which the supplier uses for the production of propagating or cultivating material in the possession thereof;
 - 2) shall have a plan for use concerning a building or construction works which the supplier uses for the production of propagating or cultivating material.
- (2) A land use plan is a body of data kept on paper or in digital form which contains the data of the user, a map of the land possession, and data characterising buildings and

construction works such as data concerning their areas and data on produced crops. Where necessary, propagation of digital data on paper must be possible.

- (3) Producers of seed shall keep a field record.
- (4) Producers of seed and suppliers engaged in the production of propagating and cultivating material shall keep detailed records of compliance with the requirements established for the production of seed and propagating and cultivating material. Documents relating to the production of seed shall be preserved for five years and documents relating to the production of propagating and cultivating material shall be preserved for three years.

Chapter 4

Authorised Field Inspectors and Authorised Seed Sample Collectors

§ 78. Authorised field inspector

- (1) An authorised field inspector (hereinafter field inspector) is a natural person who has been authorised pursuant to the procedure provided by this Act to conduct field inspection.
- (2) A field inspector specified in subsection (1) of this section shall:
 - 1) perform necessary acts pursuant to the procedure established by the Plant Production Inspectorate and under the supervision thereof;
 - 2) certify by his or her signature, in order to be authorised, that he or she will follow the instructions given to him or her and shall not reap any gain from the performance of the acts.

§ 79. Requirements for applicants for rights of field inspector

An applicant for the rights of a field inspector shall:

- 1) be educated in agriculture;
- 2) be in possession of means to perform the duties related to the authority;

3) be able to act impartially and provide appropriate assessments of actual situations in seed fields.

§ 80. Training of field inspector

A field inspector shall have completed training organised by the Plant Production Inspectorate on the same basis as a supervisory official.

§ 81. Application for authorisation as field inspector

(1) In order to be authorised as a field inspector, the applicant shall submit the following to the Plant Production Inspectorate:

- 1) an application to be granted authority;
- 2) his or her curriculum vitae;
- 3) a copy of a document certifying education.

(2) The Plant Production Inspectorate shall review the documents specified in subsection (1) of this section and shall assess the conformity of the applicant to the requirements established for field inspectors. The Plant Production Inspectorate has the right to verify the authenticity of the documents submitted by the applicant and, if necessary, demand additional information and documents.

§ 82. Grant of authority of field inspector

(1) The Plant Production Inspectorate authorises persons as field inspectors and enters into administrative contracts with them for the performance of the administrative task.

(2) The Plant Production Inspectorate decides to grant authority to an applicant or to refuse to grant authority after the applicant has completed the training specified in § 80 of this Act.

§ 83. Rights of field inspector

- (1) A field inspector has the right, pursuant to the scope of his or her authority, to:
 - 1) access information and documents necessary for the conduct of field inspection;
 - 2) prepare field inspection reports;
 - 3) use technical equipment for field inspection;
 - 4) make proposals to the supervisory official of the territory in which he or she operates to carry out post-control trials of the seed fields subject to field inspection.
- (2) A field inspector has the right to surrender his or her authority by notifying the Plant Production Inspectorate thereof by unregistered letter at least thirty days in advance.

§ 84. Duties of field inspector

A field inspector is required to:

- 1) impartially perform the duties vested in him or her by his or her authority;
- 2) guarantee that field inspection reports and other documents are prepared in a lawful, conforming and proper manner;
- 3) maintain business and professional secrets which become known to him or her during field inspection;
- 4) ensure that a field inspection report is forwarded to the supervisory official of the territory in which he or she operates within ten working days, and in the case of winter crops, within five working days after the field inspection;
- 5) after termination of the authority, forward the document specified in clause 4) of this subsection to the Plant Production Inspectorate;
- 6) at the request of the Plant Production Inspectorate, submit all documents needed for supervision over the person's activity connected to the authority to the Plant Production Inspectorate.

§ 85. Termination of authority

(1) Authorisation terminates by:

- 1) surrender of authority;
- 2) expiry of the term of authority;
- 3) the death of the authorised person;
- 4) withdrawal of authority.

(2) The Plant Production Inspectorate shall immediately take measures in order to ensure that administrative tasks are performed if a contract under public law is terminated unilaterally or another reason becomes evident which prevents a person from continuing the performance of the administrative tasks.

§ 86. Suspension and withdrawal of authority

If the activity of a field inspector related to his or her authority does not conform to the requirements, the Plant Production Inspectorate shall suspend the authority and set the person a term for elimination of deficiencies. If the deficiencies are not eliminated during the term, the Plant Production Inspectorate shall withdraw the authority and terminate the contract under public law unilaterally.

§ 87. Authorised seed sample collector

(1) An authorised seed sample collector (hereinafter seed sample collector) is a natural person who has been authorised pursuant to the procedure provided by this Act to collect, using internationally recognised methods, seed samples from seed lots subject to certification which are intended for marketing and are conditioned for such purposes in order to determine the quality of the seed and to verify the varieties.

(2) A seed sample collector who enters into an employment contract with a person engaged in the production or marketing of seed is permitted to take seed samples only from

the seed lots of his or her employer, unless the applicant for certification and the Plant Production Inspectorate have agreed otherwise.

§ 88. Requirements for applicant for rights of seed sample collector

A person applying for the rights of a seed sample collector:

- 1) shall have completed seed sample collector training in the taking of seed samples organised by a laboratory accredited pursuant to the methodology of the International Seed Testing Association (hereinafter ISTA);
- 2) shall be able to act independently.

§ 89. Application for authority of seed sample collector

(1) In order to be authorised as a seed sample collector, the applicant shall submit the following to the Plant Production Inspectorate:

- 1) an application to be granted authority;
- 2) his or her curriculum vitae;
- 3) a copy of a document certifying the completion of the seed sample collector training.

(2) The Plant Production Inspectorate shall review the documents specified in subsection (1) of this section and shall assess the conformity of the applicant to the requirements established for seed sample collectors. The Plant Production Inspectorate has the right to verify the authenticity of documents submitted by the applicant for authority and, if necessary, demand additional information and documents.

§ 90. Authorisation as seed sample collector

(1) The Plant Production Inspectorate authorises persons as seed sample collectors and enters into administrative contracts with them for the performance of the administrative task.

(2) The Plant Production Inspectorate decides to authorise a person or to refuse to authorise a person within thirty days after receiving a corresponding application.

§ 91. Duties of seed sample collector

A seed sample collector is required to:

- 1) perform the duties vested in him or her by his or her authority in an impartial manner;
- 2) close the sales package or contained of a seed lot subject to certification with a security sticker of the Plant Production Inspectorate;
- 3) guarantee that the order forms, labels of sample bags and security stickers are filled out in a lawful, conforming and proper manner;
- 4) maintain business and professional secrets which become known to him or her during the taking of samples;
- 5) at the request of the Plant Production Inspectorate, submit all documents needed for supervision over the person's activity connected to the authority to the Plant Production Inspectorate.

§ 92. Termination, suspension and withdrawal of authority

(1) Authorisation terminates by:

- 1) surrender of authority;
- 2) expiry of the term of authority;
- 3) the death of the authorised person;
- 4) withdrawal of authority.

(2) A seed sample collector has the right to has the right to surrender his or her authority by notifying the Plant Production Inspectorate thereof by unregistered letter at least thirty days in advance.

(3) If the activities of a seed sample collector related to his or her authority does not conform to the requirements, the Plant Production Inspectorate shall suspend the authority and set the person a term for elimination of deficiencies. If the deficiencies are not eliminated during the term, the Plant Production Inspectorate shall withdraw the authority and terminate the contract under public law unilaterally.

§ 93. Remuneration of authorised field inspector and authorised seed sample collectors

(1) Authorised field inspectors and authorised seed sample collectors are entitled to receive remuneration for field inspection and collection of seed samples.

(2) Authorised field inspectors and authorised seed sample collectors are prohibited to receive remuneration for services financed out of the state budget.

(3) Remuneration for services financed from the state budget shall be paid through the budget of the Plant Production Inspectorate.

(4) The amounts of and procedure for remuneration of authorised field inspectors and authorised seed sample collectors shall be established by the Minister of Agriculture.

Chapter 5

Packaging

§ 94. Packaging of seed and propagating or cultivating material

(1) For the purposes of this Act, the packaging of seed, including the seed of forest trees and seed potatoes shall mean the packaging of such seed in sales packages and the closing and marking of the sales packages.

(2) For the purposes of this Act, packaging of propagating and cultivating material of horticultural plants shall mean the marking of propagating material prepared for sale and planting material intended for the planting of forest trees.

§ 95. Packager of seed

For the purposes of this Act, packager of seed shall mean a person engaged in the packaging of seed who has been issued a licence for packaging seed.

§ 96. Requirements for packagers of seed and packaging of seed

- (1) In order to engage in the packaging of seed, a person shall have an enterprise or a part of an enterprise conforming to the requirements (hereinafter packaging premises).
- (2) The requirements for packaging the seed of agricultural plants and vegetables shall be established by the Minister of Agriculture.
- (3) The requirements for packaging premises shall be established by the Minister of the Environment.

§ 97. Licence for packaging seed and procedure for issue thereof

- (1) A person wishing to engage in the packaging of seed shall submit an application for a licence for packaging the seed of agricultural plants, vegetables and horticultural plants to the Plant Production Inspectorate or an application for a licence for the packaging of the seed of forest trees to the Centre of Forest Protection and Silviculture. A person must obtain an activity licence before commencing the packaging of the seed of forest trees.
- (2) The formal and substantive requirements for an application for a licence for packaging the seed of agricultural plants, vegetables and horticultural plants shall be established by the Minister of Agriculture.
- (3) The substantive requirements for an application for a licence for packaging the seed of forest trees shall be established by the Minister of the Environment.
- (4) The supervisory authority shall decide on the issue of a licence for packaging seed based on the plant species whose seed the person wishes to package.

(5) The supervisory authority shall make a decision to issue or a decision to refuse to issue a licence for packaging seed within fifteen working days after the date of receipt of the corresponding application.

(6) The supervisory authority shall refuse to issue a licence for packaging seed if:

- 1) the applicant has knowingly submitted false information;
- 2) the applicant has unlawfully influenced a supervisory official.

(7) A licence for packaging seed is issued for a term of three years. The supervisory authority may extend the term of a licence for packaging seed based on a written application by the holder of the licence for a period of up to three years as of the day after the date of expiry of the licence if the holder of the licence and the enterprise thereof continue to conform to the requirements of this Act.

(8) For extension of a licence for packaging seed, the holder of the licence shall submit a corresponding application to supervisory authority at least thirty days prior to the expiry of the term of validity of the licence. An application for extension of a licence shall be processed pursuant to the same procedure and within the same term as an application for a licence for packaging seed.

(9) If the holder of a licence for packaging seed wishes to package the seed of a plant species other than that for the packaging of which the licence was issued, the person must apply for amendment of the licence for the packaging of seed.

(10) The substantive requirements for a licence for packaging the seed of agricultural plants, vegetables and horticultural plants shall be established by the Minister of Agriculture.

(11) The substantive requirements for a licence for packaging the seed of forest trees shall be established by the Minister of the Environment.

§ 98. Suspension of licence for packaging seed

(1) A licence for the packaging of seed shall be suspended in part or in full until:

- 1) the circumstances of the violation of this Act are clarified;

2) the precept is complied with, if the conformity of the seed packaged by the enterprise cannot be ensured due to the circumstances temporarily prevailing in the enterprise.

(2) The supervisory authority shall make a decision to suspend a licence for the packaging of seed in part or in full within ten working days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the suspension of a licence for the packaging of seed, the packager is required to suspend the packaging of seed to the extent determined by the decision.

(4) The packager shall inform the supervisory authority of the elimination of the circumstances which constituted the basis for the suspension of the licence for the packaging of seed. The supervisory authority shall verify the correctness of the submitted information.

(5) If the circumstances which were the basis for the suspension of a licence for the packaging of seed have been eliminated, the supervisory authority shall restore the validity of the licence for the packaging of seed.

§ 99. Revocation of licence for packaging seed

(1) A licence for the packaging of seed shall be revoked in part or in full, if the packager

1) has submitted a corresponding application;

2) has knowingly submitted incorrect information to the supervisory authority or has unlawfully influenced a supervisory official;

3) has repeatedly failed to eliminate, by the date specified in the precept, any deficiencies discovered in the course of inspection;

4) is unable to meet the requirements arising from this Act due to permanent conditions prevailing in the packaging premises;

5) has terminated its activities.

(2) The supervisory authority shall make a decision to revoke a licence for the packaging of seed within ten working days after the circumstances specified in subsection (1) of this section become evident.

(3) After becoming aware of the decision to revoke a licence for the packaging of seed, the packager is required to terminate the packaging of seed to the extent determined by the decision.

§ 100. Requirements for closing sales packages

(1) Certified seed and seed potatoes shall be packaged and the sales packaging shall be closed and marked under the supervision of the supervisory authority.

(2) The packager or supplier shall ensure that a packaged seed lot or a lot of cultivating material conforms to the data set forth in the documents certifying its quality and that the content of a sales package conforms to the data set forth in its label or the plant passport.

§ 101. Marking requirements

(1) Sales packages of certified seed or seed potatoes and propagating or cultivating material lots shall be accompanied by a document in proof of their certification issued by the supervisory authority which, for plant species concerning which a plant passport is issued, must also set out the requisite data contained in the plant passport.

(2) For the seed of agricultural plant and vegetable species, the producer or supplier may print, under the supervision of the supervisory authority, the requisite information on the label or sales package pursuant to the procedure prescribed therefor.

(3) The sales packaging of other seed shall be accompanied, pursuant to the established requirements, by a conforming label issued by the supervisory authority or a document issued by the producer. Other propagating or cultivating material lots shall be accompanied by a product description or a document issued by the supplier which, for plant species concerning which a plant passport is issued, must also set out the requisite data contained in the plant passport

(4) The requirements for the packaging of seed and seed potatoes and the closing of sales packages, and for the labelling of sales packaging of seed or seed potatoes and seed lots of agricultural plant seed, the procedure for the issue of documents in proof of certification or inspection thereof, and the substantive and formal requirements for labels by plant species or groups of plant species shall be established by the Minister of Agriculture.

(5) For cultivating material, the requirements for the packaging, the closing and marking of sales packages and the substantive requirements for the documents in proof of certification or inspection, and for labels shall be established by the Minister of the Environment.

§ 102. Storage of data and keeping record

(1) The supervisory authority shall store the data related to issued licences for the packaging of seed and the documents based on which the licences were issued. The supervisory authority shall preserve all applications for a licence for the packaging of seed and the decisions made concerning such applications for a period of five years after the date of receipt of an application.

(2) Persons engaged in the packaging of seed, seed potatoes or cultivating material shall keep detailed records of their activities. Documents related to the packaging of seed potatoes shall be preserved for a period of at least five years. Documents related to the packaging of propagating and cultivating material shall be preserved for a period of three years.

Chapter 6

Marketing

§ 103. Marketing of seed and propagating or cultivating material

(1) For the purposes of this Act, marketing is the offer for sale, possession for the purposes of sale, and transfer in any other manner, without charge or for a charge, of seed and propagating or cultivating material.

(2) Transferring the seed of cereals, fodder crops, oil crops, fibre crops, vegetables, beets and seed potatoes for the purposes of conducting trials, including for scientific or research work or for production is not deemed to be marketing unless by such transfer, the right of ownership concerning such seed or the fruit thereof is also transferred.

§ 104. Requirements for marketed seed and propagating and cultivating material

(1) Seed and propagating material included in the Variety List must be certified in order to be marketed. Cultivating material shall be certified and meet the quality requirements in order to be marketed.

(2) Seed and propagating material of plant species included in the list of plant species subject to certification which is marketed as seed or propagating material of a controlled category shall meet the quality requirements established, on the basis of subsection 3 (3) or 4 (3) of this Act, for the seed or propagating material of such category.

(3) Other seed and propagating or cultivating material must meet the quality requirements established based on subsections 76 (4) and (5) of this Act in order to be marketed.

(4) The requirements for the marketing of seed and propagating material shall be established by the Minister of Agriculture.

(5) The quality requirements for cultivating material to be marketed shall be established by the Minister of the Environment.

§ 105. Documents in proof of certification and quality of seed and propagating or cultivating material to be marketed

(1) A lot of the seed and propagating material specified in subsection 104 (1) of this Act shall be accompanied with a document in proof of certification.

(2) A lot of the seed and propagating material specified in subsection 104 (2) of this Act shall be accompanied with a document in proof of its origin and species and where required, also its variety and quality.

(3) A lot of the seed and propagating or cultivating material specified in subsection 104 (3) of this Act shall be accompanied with a document in proof of its origin and species which, if required, also certifies its variety and quality.

(4) A lot compiled of seed which is not yet finally certified shall be accompanied with a document in proof of field inspection. For the purposes of this Act, seed not yet finally certified shall mean a seed of a plant species subject to certification which has undergone field inspection.

(5) The requirements for the label and accompanying documents for seed which is not yet finally certified shall be established by the Minister of Agriculture.

(6) In order to make seed rapidly available, the primary supplier of seed may place on the market seed in respect to which a certification procedure has already been commenced but before a document attesting certification has been issued concerning the seed, provided that an analytical report attesting the quality of the seed but not containing any information concerning the germination rate of the seed has been issued with regard to the seed. Such seed lot shall bear a separate label of the supplier containing the name, address and lot number.

The supplier shall guarantee at least minimum germination rate for the marketed seed. After the certification of the seed is finished and a document in proof of certification is issued, the document in proof of certification shall be sent to the buyer of the seed.

(7) A lot of cultivating material to be placed on the market in another Member State shall be accompanied with the information meeting the requirements of Commission Regulation 1598/2002/EC laying down detailed rules for the application of Council Directive 1999/105/EC as regards the provision of mutual administrative assistance by official bodies (OJ L 240, 07.09.2002, pp. 39–42). A supplier who places cultivating material on the market in another Member State shall forward the necessary information to the Centre of Forest Protection and Silviculture who shall send a relevant notice to the responsible authority.

(8) The content and procedure for forwarding notices concerning cultivating material to be placed on the market in another Member State sent to the relevant authority of the country of destination shall be established by the Minister of the Environment.

§ 106. Marketing restrictions

(1) If, based on the results of trials for the agricultural value of cultivation and use of the variety, the cultivation value of a variety entered in the Common catalogue of varieties of agricultural plant and vegetable species is not sufficient compared to the cultivation value of other varieties entered in the Variety List, or if the plant health characteristics of a variety entered in the Common catalogue of varieties of agricultural plant and vegetable species are likely to endanger the plant health or environment of other varieties, the Minister of Agriculture may prohibit the placing on the market of the variety in Estonia and give the European Commission notice thereof.

(2) The Ministry of Agriculture shall request a restriction on marketing specified in subsection (1) of this section from the European Commission before the end of the third calendar year after the calendar year during which the variety concerning which the restriction on marketing is applied for was approved for entry in the Common catalogue of varieties of agricultural plant and vegetable species.

(3) If the production of a variety included in the Common catalogue of varieties of agricultural plant and vegetable species is likely to cause a direct danger to plant health, human health or the environment, the Plant Production Inspectorate may establish the prohibition specified in subsection (1) of this section immediately after receiving the application. The Ministry of Agriculture shall inform the European Commission thereof.

(4) If due to its fenotypic or genetic characteristics, cultivating material to be placed on the market has a harmful effect on forestry, the environment, genetic resources or biological diversity, the Ministry of the Environment may apply for a permission from the European Commission to prohibit the marketing of the cultivating material within the territory of the European Union or a part thereof.

§ 107. Keeping of records

Persons engaged in the marketing of propagating or cultivating material shall keep detailed records of their activities. Documents relating to the marketing of seed or propagating or cultivating material shall be preserved for at least three years.

Chapter 7

Import and Export

§ 108. Import of Seed and Propagating or Cultivating Material

For the purposes of this Act, import of seed and propagating or cultivating material shall mean the conveyance, under the customs procedure "release for free circulation", of seed and propagating or cultivating material to Estonia from a state or territory outside the customs territory of the European Union, or from a state or territory which is not a Member State of the European Economic Community (hereinafter third country).

§ 109. Third countries from which import of seed and propagating or cultivating material is permitted

(1) In the case of seed of plant species included in the list of plant species subject to certification, only the seed of the plant species specified in Council Decision 2003/17/EC on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries (OJ L 8, 14.01.2003, pp. 10–17) may be imported from the third countries specified in the same Decision.

(2) In the case of seed not yet finally certified, only the seed mentioned in Council Decision 2003/17/EC may be imported from the third countries specified in the same Decision on the condition that the seed lot is accompanied by a document in proof of field inspection.

(3) Propagating material of fruit and berry species may be imported only from the third countries determined by the European Commission where the produced propagating material and the requirements for the production of propagating material conform to the requirements established in the European Union.

(4) Propagating material of fruit and berry species may be imported only from third countries determined by the European Commission where the produced propagating material and the requirements for the production of propagating material conform to the requirements established in the European Union.

(5) Cultivating material may be imported only from the third countries determined by the European Commission where the produced cultivating material and the requirements for the production of cultivating material conform to the requirements established in the European Union.

§ 110. Requirements for persons engaged in import of seed and propagating or cultivating material

(1) Prior to the import of cultivating material, the importer shall apply, in the case of a plant species subject to certification, for permission from the Centre of Forest Protection and Silviculture for the import of a lot of cultivating material of such plant species.

(2) Prior to the import of seed of a plant species subject to certification, the importer shall notify the Plant Production Inspectorate of the seed lot to be imported.

(3) Importers of seed or propagating or cultivating material shall keep detailed records of their activities and preserve documents concerning imports for at least three years.

§ 111. Requirements for imported seed and propagating and cultivating material

(1) A lot of seed or propagating material of a plant species subject to certification to be imported shall conform to the quality requirements established on the basis of this Act and shall be accompanied by a document in proof of certification or checking.

(2) The requirements for the import of cultivating material shall be established by the Minister of the Environment.

§ 112. Import for plant breeding, scientific research, production trials or official trials

(1) The import of a lot of seed and propagating material for the purpose of plant breeding, scientific research, production trials or official trials is permitted only based on a written permit issued by the Plant Production Inspectorate. The import of a lot of cultivating material for the purpose of breeding of tree crops, scientific research or official trials is permitted only based on a written permit issued by the Centre of Forest Protection and Silviculture.

(2) The supervisory authority shall make a decision to grant or to refuse to grant permission to import a lot of seed or propagating material for the purposes of plant breeding, scientific research, production trials or official trials within fifteen working days after the date of receipt of the corresponding application and all the documents needed for making the decision.

(3) The Minister of Agriculture shall establish the requirements for the content of an application for permission to import a lot of seed or propagating material for the purposes of plant breeding, scientific research, production trials or official trials, and the procedure for application and processing of applications.

§ 113. Export of seed not yet finally certified

In the case of export of seed not yet finally certified, the seed lot marked in a manner conforming to the requirements shall be accompanied by a document in proof of field inspection issued by the Plant Production Inspectorate.

Chapter 8

State Supervision

§ 114. Supervisory authorities

(1) State supervision (hereinafter supervision) over compliance with this Act and legislation established on the basis thereof shall be exercised by:

- 1) the Plant Production Inspectorate, for seed and propagating material;
- 2) the Centre of Forest Protection and Silviculture, for cultivating material;
- 3) the Tax and Customs Board, in the case of Import of seed and propagating or cultivating material pursuant to the provisions of Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50).

(2) In performing their duties, state supervisory officials of the supervisory authorities specified in subsection (1) of this section (hereinafter supervisory officials) shall cooperate, within the limits of their competence, with other authorities of executive power.

§ 115. Rights of supervisory officials

(1) Supervisory officials have the right to check seed and propagating or cultivating material, the premises for production, packaging, storage and marketing thereof and other handling premises, and open packages as necessary.

(2) Supervisory officials have the right to require information, copies or extracts of relevant documents and with the knowledge of the producer, to record the situation at the time of the inspection and use technical means for such purpose.

(3) A supervisory official has the right to verify, in the presence of the person whose activities are under supervisory control, adherence to the requirements of this Act and legislation established on the basis thereof in the territory and premises of an enterprise without hindrance, and to take samples of seed and propagating and cultivating material without charge.

§ 116. Organisation of supervision

(1) As a general rule, supervisory operations shall be conducted without giving prior notice. Before conducting a supervisory operation, the supervisory official shall present his or her identification and explain the purpose and manner of inspection.

(2) During performance of supervisory operations, supervisory officials of the Plant Production Inspectorate shall wear uniforms.

(3) Supervisory officials shall explain that the person whose activity is subject to supervisory control has the right to be present during the supervisory operation, obtain additional explanations, contest the operations of supervisory officials and make statements concerning the supervision shall be recorded.

(4) Supervisory officials are required to maintain business secrets which have become known to them during supervision. A business secret may be disclosed if maintaining it could present dangers to human health, plant health or to the environment. Personal data may be disclosed pursuant to the Personal Data Protection Act.

(5) The State Liability Act applies to the compensation of damage unlawfully caused to persons in the course of supervision operations conducted on the basis of this Act.

§ 117. Supervision over maintenance of varieties, field inspectors and seed sample collectors

(1) The Plant Production Inspectorate exercises supervision over the maintenance of varieties. Supervision over the maintenance of a variety of an agricultural plant or vegetable species entered in the Variety List shall consist of the verification of the varietal identity of the variety and the identity of the components of the variety based on the information and documents concerning the maintenance of the variety provided by the maintainer of the variety, as well as of laboratory tests performed with the seed or propagating material of the variety, and of post-control trials and other field trials.

(2) The provisions regulating the supervision over the maintenance of varieties of agricultural plants or vegetable species entered in the Variety List apply to supervision over the maintenance of protected varieties. Supervision over the maintenance of a protected variety, except for varieties of agricultural plants or vegetable species, shall consist of the verification of the information and documents pertaining to the maintenance of the variety provided by the holder of the plant variety right, and of comparing the characteristics of the plants grown from the seed or propagating material provided by the holder of the plant variety right with the characteristics set forth in the variety description.

(3) If it is established on the basis of the outcome of supervision that the characteristics of plants grown from the seed or propagating material submitted by the maintainer of a variety do not meet the minimum requirements and do not compare to the characteristics described in the variety description or to the characteristics of plants grown from the official sample of the variety, the variety is deemed to not have been maintained.

(4) Supervision over the activity of field inspectors and seed sample collectors is exercised by the Plant Production Inspectorate. For supervision over the activity of a seed sample

collector, control samples of at least 5 per cent shall be taken from the seed samples collected for certification purposes, except from the seed samples collected automatically.

(5) The Minister of Agriculture shall establish the requirements for the frequency and extent of post-control trials.

§ 118. Taking and analysis of samples in course of supervision

(1) A supervisory official has the right to take control samples from seed and propagating or cultivating material during inspection at the expense of the producer or supplier in order to check compliance with the requirements of this Act and legislation established on the basis thereof.

(2) The person applying for certification shall cover the costs for analysing propagating material in the course of certification in order to determine viral diseases, except for the costs of analysing seed potatoes in order to determine viral diseases.

(3) If in the course of supervision, a supervisory official has justified reason to believe that a marketed seed lot or lot of propagating or cultivating material does not meet the quality requirements established for seed and propagating or cultivating material, he or she shall issue a precept for suspension of the marketing of the seed lot or lot of propagating or cultivating material. The marketing of the seed lot or lot of propagating or cultivating material shall be suspended until the results of the analysis of the sample taken from such lot are obtained.

(4) If it is established as a result of analysing a sample obtained in the course of supervision that the seed lot or lot of propagating or cultivating material does not meet the quality requirements established for marketed seed or propagating or cultivating material, a decision to prohibit the marketing of the lot shall be made within five working days after obtaining the results of the analysis of the sample.

(5) The results of an analysis shall be issued as a test report which, in addition to the results of the analysis, shall also contain other information related to the analysis.

(6) A person who does not accept the results of a seed analysis has the right to choose another accredited laboratory for a second analysis if the person bears the costs of analysing the repeat samples.

(7) A person who wishes the supervisory authority to take account of the results of the analysis of the repeat sample specified in subsection (6) of this section shall submit an application for collecting a repeat sample to the supervisory authority.

(8) The Minister of Agriculture shall establish the methodology for collecting samples from seed and seed potatoes.

§ 119. Collecting samples for participation in Community comparative trials

(1) In order to check the conformity of seed and propagating or cultivating material to the requirements of the legislation of the European Union, Community comparative trials are organised.

(2) For participation in Community comparative trials, a supervisory official shall collect a necessary amount of samples from seed and propagating or cultivating material at the expense of the person.

§ 120. Notification for post-control trials

In order to enable post-control trials to be organised, the supervisory authority shall be notified of seed lots brought into Estonia for propagation purposes from the European Union or a state declared to be equivalent thereto.

§ 121. Precepts

(1) In the event that an offence is detected, an inspection official shall issue a precept in which he or she:

- 1) calls attention to the offence;
- 2) demand that the offence be terminated;
- 3) require the performance of acts to terminate the offence, prevention of further offences and elimination of the results of the offence;

4) set a term for compliance with the precept.

(2) The supervisory official shall communicate the precept to the person or the representative thereof against a signature either on site or by sending the precept to the person by registered mail with advice of delivery within five working days as of the discovery of the offence or receipt of the test report. If the person or the representative thereof refuses to receive the precept on site, a corresponding notation shall be made on the precept and the precept shall be sent to the person by registered letter with advice of delivery within five working days as of the refusal to receive the precept.

(3) A person who fails to comply with the precept by the specified due date with good reason has the right to apply for extension of the term for compliance with the precept. An application for extension of a specified term shall be submitted in writing before expiry of the term specified in the precept.

(4) The supervisory authority makes decisions to satisfy or deny applications submitted on the basis on subsection (3) of this section. If an application is satisfied, a new term for compliance with the precept shall be set which shall be at least as long as the previous term.

(5) In order to ensure compliance with a precept, the supervisory authority may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 10 000 kroons.

§ 122. Contestation of precept, decision or act of supervisory official

(1) If a person does not agree with a precept, decision or act of a supervisory official, the person may file a challenge with the head of the supervisory authority or contest the precept, decision or act in court under the conditions and pursuant to the procedure provided in the Code of Administrative Court Procedure.

(2) Contestation does not release the person from compliance with requirements set out in the precept.

§ 123. Notification

The Plant Production Inspectorate is required to notify the supervisory authorities of other countries, the European Commission and the CPVO of matters pertaining to seed and plant propagating material and the Centre of Forest Protection and Silviculture is required to notify such authorities of issues pertaining to cultivating material in adherence to the legislation of the European Union.

Chapter 9

Liability

§ 124. Marketing of seed and propagating or cultivating material not conforming to quality requirements

- (1) Marketing of seed and propagating or cultivating material which does not meet the quality requirements is punishable by a fine of up to 200 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 125. Violation of requirements for packaging of seed and propagating or cultivating material or requirements for labelling of sales packages

- (1) Violation of the requirements for the packaging of seed and propagating or cultivating material, or the requirements for the labelling of sales packages is punishable by a fine of up to 100 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 126. Failure to comply with notification obligation

- (1) Failure to comply with notification obligation is punishable by a fine of up to 200 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 127. Failure to comply with production requirements and to perform own check obligation

- (1) Failure to comply with production requirements and to perform own check obligation is punishable by a fine of up to 200 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 128. Failure to perform obligations of field inspector

Failure to perform or defective performance of the obligations of field inspector is punishable by a fine of up to 100 fine units.

§ 129. Failure to perform obligations of seed sample collector

Failure to perform or defective performance of the obligations of seed sample collector is punishable by a fine of up to 100 fine units.

§ 130. Proceedings

- (1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to misdemeanours provided for in §§ 124-129 of this Act.
- (2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 124-129 of this Act shall be conducted by:

- 1) the Plant Production Inspectorate;
- 2) the Centre of Forest Protection and Silviculture;
- 3) the Consumer Protection Board.

Chapter 10

Implementing Provisions

§ 131. State Plant Varieties Register and Variety List

(1) The register of protected varieties established based on subsection 8 (1) of the Plant Variety Rights Act is deemed to be the state Plant Varieties Register specified in subsection 57 (1) of this Act.

(2) The Plant Production Inspectorate shall enter, under the same conditions and for the same term without a separate application and a without a state fee, the varieties included in the Variety List compiled on the basis of the Seed and Plant Propagating Material Act in the Variety List compiled on the basis of this Act as of the date of entry into force of this Act.

§ 132. Processing of applications submitted based on Plant Variety Rights Act and validity of plant variety rights

(1) The processing of applications for plant variety rights submitted based on the Plant Variety Rights Act the processing of which, including the conduct of registration trials, is not yet completed by the time of entry into force of this Act shall be continued in adherence to the requirements provided by this Act without applying the requirement of novelty.

(2) The plant variety right of a variety placed under protection based on the Plant Variety Rights Act and a plant variety right certificate shall be valid during the period that the variety is protected until the expiry of the term specified in the decision of placing the variety under protection.

(3) The Republic of Estonia is the holder of plant variety rights to varieties which were bred using state funds and granted protection before 1 July 1998.

§ 133. Validity of licences issued

(1) A licence for the production or packaging of seed or plant propagating material issued on the basis of the Seed and Plant Propagating Material Act, an authorisation registered by the Plant Production Inspectorate issued by the holder of a plant variety right or a representative thereof to the producer or packager of the seed or propagating or cultivating material of a protected variety or an import permit for the import of cultivating material issued by the Centre of Forest Protection and Silviculture shall remain valid until the date of expiry set out therein.

(2) An activity licence for the production or packaging of cultivating material issued based on the Seed and Plant Propagating Material Act for an unspecified term shall be valid for a period of five years after the entry into force of this Act. The term of validity of such activity licence may be extended pursuant to the procedure established by § 66 of this Act.

§ 134. Third countries from which import of propagating material of fruit and berry species is permitted

(1) Based on the Decision of the European Commission specified in Article 16.2 of Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 157, 10.06.1992, pp. 10–18) and taking account of the requirements of the same Directive regarding the propagating material of fruit and berry species, production thereof, the duties of suppliers, the identity and characteristics of the propagating material, plant health, growing environment, packaging, supervision and marking and closing of sales packages, the Plant Production Inspectorate shall determine, until 31 December 2007, the third states specified in subsection 109 (3) of this Act where the produced propagating material of fruit and berry species and the requirements for the production thereof conform to the requirements established in the European Union.

(2) The Plant Production Inspectorate shall compile a list of third countries from which the import of the propagating material of certain fruit and berry species is permitted, and shall publish such list on its website.

(3) The Plant Production Inspectorate shall immediately notify the European Commission and other Member States of the decisions made based on the decision specified in subsection (1) of this section.

§ 135. Third countries from which import of propagating material of vegetable species is permitted

(1) Based on the Decision of the European Commission specified in Article 16.2 of Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 157, 10.06.1992, pp. 1-9) and taking account of the requirements of the same Directive regarding vegetable propagating material, production thereof, the duties of suppliers, the varietal identity and characteristics of the propagating material, plant health, substratum, packaging, procedure for checks and marking and closing of packages, the Plant Production Inspectorate shall determine, until 31 December 2007, the third states specified in subsection 109 (4) of this Act where the produced vegetable propagating material and the requirements for the production thereof conform to the requirements established in the European Union.

(2) The Plant Production Inspectorate shall compile a list of third countries from which the import of the propagating material of certain vegetable species is permitted, and shall publish such list on its website.

(3) The Plant Production Inspectorate shall immediately notify the European Commission and other Member States of the decisions made based on the decision specified in subsection (1) of this section.

§ 136. Third countries from which import of cultivating material is permitted

(1) The Centre of Forest Protection and Silviculture shall compile a list of third countries from which the import of the cultivating material of certain plant species is permitted, and shall publish such list on its website.

(2) The Centre of Forest Protection and Silviculture shall immediately notify the Commission and other Member States of third countries from which the import of the cultivating material of certain plant species is permitted.

§ 137. Amendment of Patents Act

Clause 47 (1) 5) of the Patents Act (RT I 1994, 25, 406; 2005, 18, 104) is amended and worded as follows:

„5) the patent hinders the grant of plant variety rights pursuant to the Plant Propagation and Plant Variety Rights Act or the use of a plant variety which is granted protection.”

§ 138. Amendments to State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2005, 64, 483) is amended as follows:

1) clause 3 (2) 14) is amended and worded as follows:

„14) Acts performed pursuant to the Plant Propagation and Plant Variety Rights Act”;

2) the title of Division 7 of Chapter 7 of the Act is amended and worded as follows:

«7. Division 7

Acts performed pursuant to the Plant Propagation and Plant Variety Rights Act”;

3) section 93 is amended and worded as follows:

„§ 93. Application for grant of plant variety right

A state fee of 1000 kroons shall be paid for the review of an application for a plant variety right.”;

4) the existing text of § 95 is considered subsection (1) and the section is amended by adding subsection (2) worded as follows:

„(2) The state fee for keeping the plant variety right in force shall be paid not later than two months before the beginning of the following year of the term of a plant variety right.”;

5) subsection 98 (1) is amended and worded as follows:

„(1) A state fee of 100 kroons shall be paid for the issue of a duplicate certificate of a plant variety right.”;

6) subsection 98 (3) is repealed;

7) sections 99¹ and 99² are amended and worded as follows:

„§ 99¹. Issue of compulsory licence

A state fee of 1000 kroons shall be paid for the issue of a compulsory licence.

§ 99². Registration of varieties and entry in Variety List of varieties

(1) A state fee of 150 kroons shall be paid for the review of an application for registration of a variety.

(2) A state fee of 200 kroons shall be paid for the review of an application for entry of a variety in the Variety List.”;

8) the Act is amended by adding §§ 99³ and 99⁴ worded as follows:

„§ 99³. Maintaining variety in Variety List

(1) A state fee shall be paid in the following amount for each year of maintaining a variety of cereals, spring swede rape or potatoes in the Variety List:

1) 200 kroons for the first to the fourth year;

2) 250 kroons for the fifth to the tenth year;

3) 300 kroons as of the eleventh year.

(2) A state fee shall be paid in the following amount for each year of maintaining a variety of other plant species in the Variety List:

- 1) 150 kroons for the first to the fourth year;
- 2) 200 kroons for the fifth to the tenth year;
- 3) 250 kroons as of the eleventh year.

(3) The state fee for maintaining a variety in the Variety List shall be paid not later than two months before the beginning of each year during which the variety is to be kept on the list.

§ 99⁴. Certification and packaging of seed

(1) A state fee shall be paid in the following amount for the certification of seed:

- 1) 15 kroons per one hectare for the field inspection of a seed field of cereal and leguminous vegetable species;
- 2) 18 kroons per one hectare for the field inspection of a seed field of oil crop, grass plant and flax species;
- 3) 7 kroons per 100 square meters for the field inspection of an open seed field of vegetable species;
- 4) 300 kroons per 100 square meters for the field inspection of an under glass seed field of vegetable species.

(2) A state fee shall be paid in the following amount for the collection of seed samples and laboratory testing:

- 1) 500 kroons for species of cereal, oil crop, leguminous plant or flowers;
- 2) 200 kroons for herbaceous grasses;
- 3) 100 kroons for the species of forest trees.

(3) A state fee of 75 kroons shall be paid for a repeat laboratory analysis of the germination rate of certified seed.

- (4) A state fee shall be paid in the following amount for labelling sales packages of seeds:
- 1) 1.2 kroons per package for the seed of species of oil crops and grass plants;
 - 2) 2 kroons per package for the seed of other crops;
 - 3) 1 kroon per package for the seed of forest trees.
- (5) A state fee of 500 kroons shall be paid for the issue of a permit for the packaging of seed.
- (6) A state fee of 250 kroons shall be paid for the issue of an activity licence for the production of cultivating material.
- (7) A state fee of 100 kroons shall be paid for the extension of a permit for the packaging of seed.”;
- 9) subsection (6) is added to § 216¹ worded as follows:

„(6) During the first four years after the date of entry in the Variety List, no state fee is charged for the maintenance in the Variety List of a variety entered in the Variety List from 1 January 2002 to 1 January 2006.”

§ 139. Amendment of Forest Act

The Forest Act (RT I 1998, 113/114, 1872; 2004, 38, 258) is amended as follows:

- 1) in the entire text of the Act, the words “propagating material” are substituted by the words “cultivating material” in the appropriate case form;
- 2) clause 10 (12) 1) is repealed.

§ 140. Amendment of Administrative Co-operation Act

Subsection 13 (1¹) of the Administrative Co-operation Act (RT I 2003, 20, 117; 2005, 54, 430) is amended by adding clauses 9), 10) and 11) in the following wording:

„9) the administrative contracts specified in subsections 82 (1) and 90 (1) of the Plant Propagation and Plant Variety Rights Act;

10) the administrative contract specified in subsection 13 (4) of the Veterinary Activities Organisation Act;

11) the contract specified in subsection 31 (1) of the European Union Common Agricultural Policy Implementation Act."

§ 141. Repeal of Acts

The Plant Variety Rights Act (RT I 1998, 36/37, 553; 2002, 63, 387) and the Seed and Plant Propagating Material Act (RT I 1998, 52/53, 771; 2004, 32, 226) are repealed.

§ 142. Implementing provision

The legislation issued on the basis of the Plant Variety Rights Act and the Seed and Plant Propagating Material Act which was in force until the entry into force of this Act shall remain in force after the entry into force of this Act until it is repealed or until the entry into force of new legislation established on the basis of this Act, however, not for longer than until 1 May 2006.

§ 143. Entry into force of Act

(1) This Act enters into force on 1 January 2006.

(2) Clause 65 (1) 3) of this Act enters into force on 1 July 2006.

¹ Council Directive 66/401/EEC on the marketing of fodder plant seed (OJ P 125, 11.07.1966, pp. 2298–2308), amended by Directives 69/63/EEC (OJ L 48, 26.02.1969, pp. 8–12), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978,

pp. 23–29), 78/386/EEC (OJ L 113, 25.04.1978, pp. 1–12), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, pp. 1–4), 80/754/EEC (OJ L 207, 09.08.1980, p. 36), 81/126/EEC (OJ L 67, 12.03.1981, pp. 36–37), 82/287/EEC (OJ L 131, 13.05.1982, pp. 24–26), 85/38/EEC (OJ L 16, 19.01.1985, pp. 41–42), 86/155/EEC (OJ L 118, 07.05.1986, pp. 23–27), 87/120/EEC (OJ L 49, 18.02.1987, pp. 39–43), 87/480/EEC (OJ L 273, 26.09.1987, pp. 43–44), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 89/100/EEC (OJ L 38, 10.02.1989, p. 36), 90/654/EEC (OJ L 353, 17.12.1990, pp. 48–56), 92/19/EEC (OJ L 104, 22.04.1992, pp. 61–62), 96/18/EC (OJ L 76, 26.03.1996, pp. 21–22), 96/72/EC (OJ L 304, 27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, pp. 1–26), 98/96/EC (OJ L 25, 01.02.1999, pp. 27–33), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/55/EC (OJ L 114, 21.04.2004, p. 18), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33);

Council Directive 66/402/EEC on the marketing of cereal seed (OJ P 125, 11.07.1966, pp. 2309–2319), amended by Directives 69/60/EEC (OJ L 48, 26.02.1969, pp. 1–3), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/101/EEC (OJ L 2, 01.01.1973, pp. 1–27), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978, pp. 23–29), 78/387/EEC (OJ L 113, 25.04.1978, pp. 13–19), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, pp. 1–4), 81/126/EEC (OJ L 67, 12.03.1981, pp. 36–37), 85/3768/EEC (OJ L 362, 31.12.1985, pp. 8–16), 86/155/EEC (OJ L 118, 07.05.1986, pp. 23–27), 86/320/EEC (OJ L 200, 23.07.1986, p. 38), 87/120/EEC (OJ L 49, 18.02.1987, pp. 39–43), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 88/506/EEC (OJ L 274, 06.10.1988, p. 44), 89/2/EEC (OJ L 5, 07.01.1989, p. 31), 90/623/EEC (OJ L 333, 30.11.1990, p. 65), 93/2/EEC (OJ L 54, 05.03.1993, p. 20), 95/6/EC (OJ L 67, 25.03.1995, pp. 30–32), 96/72/EC (OJ L 304, 27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, pp. 1–26), 98/96/EC (OJ L 25, 01.02.1999, pp. 27–33), 99/08/EC (OJ 50, 26.02.1999, p. 26), 1999/54/EC (OJ L 142, 05.06.1999, pp. 30–31), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33);

Commission Directive 74/268/EEC laying down special conditions concerning the presence of 'Avena fatua' in fodder plant and cereal seed (OJ L 141, 24.05.1974, pp. 19), amended by Directive 78/511/EEC (OJ L 157, 15.06.1978, pp. 34);

Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 157, 10.06.1992, pp. 1–9), amended by Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), Decisions 1999/29/EC (OJ L 008, 14.01.1999, pp. 29), 2002/111/EC (OJ L 41, 13.02.2002, pp. 43) and 2005/55/EC (OJ L 22, 26.01.2005, pp. 17) and Regulation 806/2003/EC (OJ L 122, 16.05.2003, pp. 1–35);

Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 157, 10.06.1992, pp. 10–18), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2003/111/EC (OJ L 311, 27.11.2003, pp. 12–13), Decision 2005/54/EC (OJ L 22, 26.01.2005, p. 16) and Regulation 806/2003/EC (OJ L 122, 16.05.2003, pp. 1–35);

Commission Directive 93/48/EEC setting out the schedule indicating the conditions to be met by fruit plant propagating material and fruit plants intended for fruit production, pursuant to Council Directive 92/34/EEC (OJ L 250, 07.10.1993, pp. 1–8);

Commission Directive 93/49/EEC setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC (OJ L 250, 07.10.1993, pp. 9–18), amended by Directive 1999/67/EC (OJ L 164, 30.06.1999, p. 78);

Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 92/33/EEC (OJ L 250, 07.10.1993, pp. 19–28);

Commission Directive 93/62/EEC setting out the implementing measures concerning the supervision and monitoring of suppliers and establishments pursuant to Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 250, 07.10.1993, pp. 29–30);

Commission Directive 93/64/EEC setting out the implementing measures concerning the supervision and monitoring of suppliers and establishments pursuant to Council Directive

92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 250, 07.10.1993, pp. 33–34);

Commission Directive 93/79/EEC setting out additional implementing provisions for lists of varieties of fruit plant propagating material and fruit plants, as kept by suppliers under Council Directive 92/34/EEC (OJ L 256, 14.10.1993, pp. 25–31);

Council Directive 98/56/EC on the marketing of propagating material of ornamental plants (OJ L 226, 13.08.1998, pp. 16–23), amended by Regulation 806/2003/EC (OJ L 122, 16.05.2003, pp. 1–35) and Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28);

Commission Directive 1999/66/EC setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56/EC (OJ L 164, 30.06.1999, pp. 76–77);

Commission Directive 1999/68/EC setting out additional provisions for lists of varieties of ornamental plants as kept by suppliers under Council Directive 98/56/EC (OJ L 172, 08.07.1999, pp. 42–43);

Council Directive 1999/105/EC on the marketing of forest reproductive material (OJ L 11, 15.01.2000, pp. 17–40);

Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species nõukogu direktiiv (OJ L 193, 20.07.2002, pp. 1–11), amended by Regulation 1829/2003/EC (OJ L 268, 18.10.2003, pp. 1–23);

Council Directive 2002/54/EC on the marketing of beet seed (OJ L 193, 20.07.2002, pp. 12–32), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33);

Council Directive 2002/55/EC on the marketing of vegetable seed (OJ L 193, 20.07.2002, pp. 33–59), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33) and Regulation 1829/2003/EC (OJ L 268, 18.10.2003, pp. 1–23);

Council Directive 2002/56/EC on the marketing of seed potatoes (OJ L 193, 20.07.2002, pp. 60–73), amended by Decision 2003/66/EC (OJ L 25, 30.01.2003, p. 42) and Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28);

Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (OJ L 193, 20.07.2002, pp. 74–97) amended by Directives 2002/68/EC (OJ L 195, 24.07.2002, pp. 32–33), 2003/45/EC (OJ L 138, 05.06.2003, pp. 40–44), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28) and 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33).