



# SEED LEGISLATION

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

SEED LEGISLATION

by

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FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

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## FOREWORD

Making high quality seed available to farmers has always been an important consideration for the governments of Member Nations of FAO and progressively so, as numerous references to the subject and recommendations of the Conference directly or indirectly bear witness. The technical aspects of the seed question have been dealt with adequately in any number of publications, the legal and institutional aspects perhaps less so. The present study accordingly seeks to make good the deficiency to some extent by providing, for the use of governments, institutions and persons responsible for drafting laws and regulations, an overall view of a selection of national laws and of certain elements of comparative law discernible there, such as might serve some useful purpose both within the context of the individual country and in that country's dealings with others.

The selection of countries for inclusion of their laws and regulations in this study was determined, within the limits of the documentary material available at FAO, by geographic considerations and those of their legal systems - inclusion or exclusion representing no judgment whatsoever as to the values of any system or any law in force under it. Since this is a study of national laws, no more than a passing reference will be found to international agreements, supranational legislation or international standards.

This study was prepared by Mr. Luís M. Bombín-Bombín, Legal Officer, of the Animal, Plant and Food Section, Legislation Branch, under the supervision of Mr. R. Ricard, chief of that section. The Legislation Branch wishes to thank Dr. W.P. Feistritzer, Plant Production and Protection Division, Agriculture Department, FAO, for his collaboration in preparing the outline of the studies for the individual countries and Mr. C.H. Rosell, of the same Division, for his suggestions as the work went forward.

It is possible that omissions in the present study may come to light, as well as statements based on incomplete information in certain cases. The Legislation Branch would accordingly appreciate it if these were pointed out, with a view to remedying them in any future edition. As far as possible, every effort has been made to take into account enactments introduced in the various countries up to the beginning of 1979.

Dante A. Caponera  
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## PART I

The main points  
of seed legislation compared



## 1. THE ROLE OF SEED LEGISLATION IN AGRICULTURAL DEVELOPMENT

The conviction to gaining ever wider acceptance nowadays that quality seed offers the farmer a higher return on his outlay. Hence, too, the greater emphasis being placed on research, investment and the application of advanced technology in this field. For quality seed is often the only means of achieving the production levels needed by the developing countries 1/.

Experience has shown that a country's seed industry cannot progress satisfactorily without an appropriate legislative framework 2/. For the laws perform, in the first place, the twofold task of safeguarding the interests of producer and consumer alike in a sector that lends itself somewhat readily to misunderstanding and fraud. For quality, control is a much less easy undertaking with seed than with many other commodities. Few farmers are equipped to check, say, the moisture content, genetic purity or germinative capacity of the seed they use. It is here that the laws provide the purchaser with the assurance that his seed conforms to certain minimum standards. The seed producer and merchant, in their turn, benefit from adequate legislation, both being protected from unfair competition and both gaining confidence in their market prospects 3/.

Next, seed legislation has a social function in that it safeguards the interests of the producer, the tradesman and the farmer; and this can only redound to the benefit of the community as a whole. The social function is also evident in the fact that good laws act as a catalyst on the nation's resources and potentialities which might otherwise go untapped. Legislation then provides an opportunity for revitalizing an entire sector in that it is conducive to the setting up of competent agencies, the granting of subsidies or other incentives, and the organising of the distributive system but, most of all, in that it engenders a climate of confidence, because all know where they stand before the law.

Where the legislative framework exists, again, commercial cooperation and the exchange of experiences and technology among countries is facilitated. Frequently, international trade comes up against a barrier in the lack of legislative provision in a given country or in the existence of rules that differ too widely, often for no reason, as regards production, labelling, description of goods and technical requirements. In this connection, reference should be made to the valuable efforts made at the international level by the inter-governmental agencies in the field of seed production, certification and analysis and in harmonizing the

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1/ FAO has published several titles of related technical interest, such as:

- Agricultural and Horticultural Seeds, FAO, Agricultural Series No. 55, Rome 1961.
- Cereal Seed Technology, FAO Agricultural Development Paper No. 98, Rome, 1975. A chapter on seed legislation is included.
- FAO Seed Review 1974-1975, Rome, 1977. Information on 82 countries. When the latter have any laws or regulations, a brief reference is made to this fact.
- The role of seed science and technology in agricultural development. Proceedings of an International Seed Symposium organized in cooperation with the Federal Government of Austria, Rome, 1977.

2/ The role of seed science... p. 215.

3/ Cereal Seed Technology, p. 203.

rules governing this sector 1/. For countries to participate in the work of these agencies they must have at least something in the way of seed legislation of their own 2/.

The fact that a country has seed legislation is not of itself a sufficient guarantee, however, that all will be well. Laws must be enforceable and enforced, under penalty of becoming a dead letter. They must, furthermore, be geared to the social, juridical and cultural context; and they must provide an answer to felt needs. This explains why it is not possible to discern a "model seed legislation" that can be fitted to all countries without exception. In some cases, particularly in an early stage of development, the law must serve as a means of informing and educating producers, tradesmen and farmers, since it is only a properly informed and critical society that can open itself up to a high degree of development and in enduring terms.

The function and tasks assigned to seed law within the general context of the laws of a given country may be discerned from a perusal of the subject matters regulated. Now, under the umbrella of seed legislation, rules are prescribed governing a wide range of subject matters and activities - registers, production processes, labelling, sample taking, inspection, etc. The present study follows a uniform approach in both the general part and in the country studies by noting the matters covered by positive law and by examining the activities now indicated: first, the enactments - laws, regulations, etc., which, from the evidence of available documentary material, are currently in force. Next are presented the object and scope of this legislation. This is followed by a review of the principal terms and expressions used, especially in connection with classes of seed, their subdivisions and the relevant definitions. The institutional implications are examined under the next heading, which is the role of the government authorities. Having dealt with these preliminary and institutional matters, the study goes on to describe the policy and procedures followed by the respective countries in the matter of quality control, with special attention to the practical implementation of this policy through such instruments as Lists or Registers, together with an indication of their respective functions. The Lists or Registers in question include those relative to the ownership of varieties or plant breeders' rights where these are involved in connection with seed. Though the protection at law of newly evolved varieties and of the breeders' "copyright" is a vast subject and one that encompasses a wide range of problems, it is considered only incidentally in the present study 3/. Next to be examined are the rules governing the seed production stage under the threefold aspect of producers, production processes and the requirements applying to processed seed. Following that of production, the stage next to be considered is marketing rules, and rules applying to packaging, closure, labelling, publicity and extension work. There then follows a review of the law in the matter of inspection and enforcement (which may be directed to either the production or the marketing, stages, or to both) and lead on to considering rules affecting, say, official inspectors, sample taking and analysis procedures. After this comes a section on imports and exports. Finally, reference is made to offences and penalties and to the enforcing authority in their regard.

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1/ In The role of seed science..., pp. 358-384, will be found the statements made by the various international and national organizations at the symposium there reported. These include a description of the functions and present situation of each of the organizations concerned. Noteworthy in this connection is the Organization for Economic Co-operation and Development, which to date has established three certification schemes.

Pages 385-390 Op.cit. illustrate the activities of European Economic Community in the matter of seed legislation (cf. list given in the Annex to the present study). This legislation has its repercussions within the Member States (Germany being the Member State selected here).

2/ An example of international collaboration may be seen in the bilateral agreement between the United States and Thailand, signed on 11 December 1975: Improved Seed Development. Agreement between the United States of America and Thailand. Treaties and other International Acts Series 8474, Department of State, Washington, 1977.

3/ Copyright is the specific concern of the World Industrial Property Organization. The organ of this is Industrial Property and from time to time publishes the text of enactments relating to the protection of plant breeders' rights.

## 2. CURRENT LAWS AND REGULATIONS

In view of the predominantly technical content of seed legislation, it is usual to find, as a recurrent principle in the countries studied, a succession of enactments promulgating specific rules, regulations, standards, etc. The first step normally is the introduction of a Basic Act stating general policy, setting up the main structural elements of the institutional framework and mapping out the main lines of approach for the administration of the Act itself and vesting in an appropriate authority - be it the government, or a minister, or a department or other - the necessary powers for making specific regulations. The next step, precisely, will be the making of these regulations by the minister (or whoever is empowered to do so), which he may do by means of any number of rulemaking texts. These last will vary in degree of mandatory force, permanence and territorial scope, depending on the actual issuing authority.

From the formal standpoint - i.e. in relation to the type of enactment and the rulemaking source - the arrangements described offer two main advantages in that they (i) respect the autonomy and jurisdiction of the various levels of government, the tendency being to operate through subsidiary legislation, and (ii) make for expeditiousness and efficiency in public administration. Since not all enactments will have the formal rigidity of laws passed by the legislature, the faculty rests with the government, or the minister, or whatever authority is competent in seed matters, to replace or amend a specific rule without changes needing to be introduced into the Basic Act, with all the time-consuming procedures that that implies.

A number of countries have just such a Basic Act, followed up by subsidiary legislation of varying scope (Canada, India, United States, Uruguay, Zambia), while others have a more diversified pattern of legislation. Thus, for Spain the basic text is provided by the Basic Act and General Production Regulations, the latter receiving further specification in the General Technical Regulations for Seed Control and Certification. These in turn have been developed since promulgation by means of technical regulations for control and certification for specific seeds. Germany, too, has a Basic Act and a series of Ordinances issued there-under, each of the latter regulating some major aspect or other of the Act or prescribing rules governing one or other group of plants.

Seed legislation usually constitutes a self-contained body of law, distinct from other bodies of law dealing with, say, food or plant health. The rules designed for the protection of varieties or of plant breeders' rights are likewise usually dealt with separately. One exception here, is Argentina, where the Act deals not only with seed but also with the protection of the ownership of cultivators and with plant breeders' rights. Another example is the Chilean Act, which contains provisions protecting the rights of those who evolve new varieties. Kenya, again, devotes particular attention to plant breeders' rights.

## 3. OBJECT AID SCORE

The object sought in promulgating a seed Act or regulations is sometimes stated explicitly in the text itself. This is usually provided for in the preamble, if there is one, to the Act or, especially in the case of a Basic Act, in one of the opening articles, and is intended primarily as a statement of policy. Some laws mention briefly the main object (Argentina, Finland, India, United States), while others have a preamble or one of the early articles going into detail (Romania, Spain). The object thus stated will tend to be that of promoting production and marketing; guaranteeing farmers the identity and quality of the seed they buy (Argentina); stimulating the production of high-quality seed and promoting its

use by farmers; aligning domestic law with international agreements, and ensuring uniformity and reliability in the production sector (Spain); regulating interstate trade and requiring truth in labelling (United States); promoting the nation's production, and ensuring the supply of seed (Finland); prescribing rules governing the quality of certain seeds (India); and ensuring the supply of seed in the required quantities and an ongoing improvement in quality (Romania).

The scope of all these laws - normally expressed as has been pointed out in one of the opening articles - usually covers material of both sexual and vegetative reproduction (i.e. both seeds in the strict sense and other promoting material such as seedlings, cuttings, grafts and tubers). The features peculiar to the respective countries' laws are nevertheless quite marked, so much so that it is difficult to classify the countries concerned into clear-cut groups. Some of the laws have a very wide - even unlimited - scope within the definition of seed. With other countries, planting material is included together with seed if it is listed in the schedule to the Act. In other countries, again, the scope encompasses only planting material of agricultural and horticultural crops. A frequent feature is the exclusion of forest seed and planting material.

Thus, in Germany the Act applies to seed for sowing and planting material specified in the appropriate List. In Argentina, the definition of seed covers sexual and asexual planting material, the Act applying to all species of plants. In Canada, all kinds of seed are affected except those of fruit trees and forest species. In Chile, all seed is affected except flower and tree seed, which are governed by regulations of their own. In Spain the law covers seed and nursery stock, the only exclusion referring to forest seed and seedlings. The United States' Act and Regulations affect agricultural and vegetable seed listed by name. Similarly in Finland, agricultural and vegetable seed are covered. In India, the Act refers to seed that by official notification is declared to be regulated. In Kenya, Romania, Tunisia and Uruguay, the legislation is broad in scope, covering both seed and planting material. In Morocco, again, the law applies to seed and seedlings of all species coming under approved technical regulations, while in Yugoslavia the law applies to seed of listed species and to planting material of fruit trees vines and hops, and in Zambia to all prescribed species (field and vegetable varieties, but not flowers).

#### 4. BASIC CONCEPTS AND TERMINOLOGY

Several of the texts contain a large number of definitions (India, Kenya, United States, Uruguay, Zambia - the last-mentioned proposing as many as forty). As is only to be expected, the most frequently encountered definitions are those of seed, planting material, and variety or cultivar.

The definition of seed shows a wide range of variants. This is due in part to the fact that the term sometimes comprises, and sometimes not, vegetative propagation material and partly because it applies only to specifically listed items.

One group of countries employs a very general definition of seed, comprising practically everything that can be planted. Thus, in Argentina, seed is understood to mean any plant structure intended for sowing or other means of propagation. In Chile, one finds the following definitions: "any seed, tuber or bulb and, in general, any planting material or plant structure intended for the sexual or asexual reproduction of any botanical species". In Kenya, seed refers to that part of a plant which is used or is intended to be used for propagation and includes "any seed, seedling, corn, cutting, bulb, bulbil, layer, marcott, root, runner, scion, set, split, stem, stock, stump, sucker, a tuber so used or intended to be so used". In Tunisia, a joint definition is given of seed and planting stock, thus: "any seeds, plants and parts of plants intended for plant production generally. In Uruguay, the word is taken to mean any botanical structure intended to be used for sowing or other form of propagation as the term currently understood in that country. In Zambia seed refers to "the part of any plant customarily referred to as seed intended for planting" (seed potatoes are included in this definition).

A second group of countries proposes a definition of seed applicable to a specified group of plants. Canada defines seed as the seed of any cereal, forage, legume, turf, root, vegetable, tobacco fibre or oil bearing crop, grown, sold or represented for sale for the purposes of propagation. In India seed means any of the following classes of seed used for sowing or planting: seeds of food crops, including edible oil seeds and seed of fruit and vegetables, cotton seeds; seed of cattlefodder and jute seed. The term also covers seedlings and tubers, bulbs, rhizomes, roots, cuttings, all type of grafts and other vegetatively propagated material, of food crops or cattle fodder. In the United States, no definition is given of seed as such but rather of agricultural seeds and vegetable seeds, the former including the seed of grass, forage and field crops intended for seeding and specified in the relevant list in the Regulations, the latter referring to seed of those crops (specified) that are grown or may be grown in gardens and truck farms and are or may generally be known and sold under the name of vegetable seeds.

Countries making up yet a third group propose one definition for seed and another one for seedlings, or even treat the two groups quite separately. Thus, Spain defines seed as "botanical elements intended for the propagation of the species", together with tubers, bulbs and other organs and living material used for reproduction purposes. Seedlings (plantas de vivero) are "botanical individuals intended for the establishment of stands and any other vegetative organ not covered by the definition of seed and used for reproduction purposes". In Morocco the term "seed" refers to any parts of a plant obtained through sexual de production, the term seedling applying only to those parts of a plant that ensure its reproduction by vegetative propagation. Romania considers as being seed and planting material: (a) seed or other planting materials intended for the multiplication of crop plants, and (b) planting material produced by grafting or other methods of vegetative reproduction. Germany's "Saatgut" covers both seed in the narrower sense (Samen) and planting material (Pflanzgut). The former term includes both seed for plant production and planting material for potatoes and vines. Finland uses similar terminology.

A distinction is made between classes or categories of seed, being based on the higher or lower quality of the seed in question - the greater the number of generations following the seed the lower the quality is deemed to become. The law prescribes mandatory characteristics for the respective classes or categories.

Some countries have a fundamental division into two categories of seed, viz. (a) seed meeting general requirements prescribed by law; and (b) seed that, in addition, is subjected during the production and marketing stages to inspections. The latter class of seed is usually given the designation "certified". Argentina is an exception here in using the albeit equivalent term "controlled" (fiscalizada). Within the certified group subdivisions may be proposed, as in the following countries. Argentina distinguishes between "identified" seed and "controlled" seed, the former being labelled so as to include a certain amount of information, the latter being seed which, in addition to meeting the requirements prescribed for identified seed, has performed well in officially approved tests and has been subjected to official control during the various stages of the production cycle. There are two categories of controlled seed: original (basic or foundation) seed and certified seed. India distinguishes between "seed of any notified kind or variety" and certified seed. Seed of the former description is seed that has been regulated as regards quality and has been notified in the Official Gazette, while certified seed, in addition to these qualifications, must fulfill all requirements for certification provided by the Act and the Seed Rules, and must bear a certification tag on the container. There are three classes of certified seed: foundation, registered, and certified. Uruguay has commercial seed and certified seed: the former refers to any seed that is offered for sale in conformity with the provisions of the law but has not met the requirements prescribed for certified seed; the latter refers to seed that has undergone the officially prescribed certification process. There are four classes of certified seed: parent seed (semilla madre), foundation seed, registered seed and certified seed. Zambia distinguishes between prescribed seed and certified seed; the former expression covers any seed listed as such in the appropriate schedule and satisfying certain minimum standard requirements laid down in the Regulations; certified seed is listed seed which is required to meet stricter conditions than those laid down in the Regulations for prescribed seed.

To the above group of countries which make a fundamental distinction between the two categories mentioned may be said also to belong the United States. That country distinguishes between, on the one hand "agricultural" and "vegetable" seed, which are specified in the respective lists and "certified agricultural" and "certified vegetable" seed. Certified seed must undergo inspection by the seed certifying agencies and is divided into four classes: breeder, foundation, registered and certified seed.

A second group comprises those countries that distinguish seed straightway into more than two categories. Certified seed no longer represents a major element of a twofold division but is one category among several. Thus, Germany has five categories: basic, certified, standard, commercial and auxiliary seed. Canada has a fourfold distinction: Foundation No. 1 and No. 2, registered No. 1 and No. 2 and Canada seed No. 1, No. 2, and No. 3. Chile has four categories: parent material, pre-basic or "genetic", basic or foundation, certified and ordinary (corriente) seed. In Spain six categories are contemplated: parental material (material parental o de partida), basic seed, certified seed (of first generation or of subsequent generations), authorized seed, tolerated seed and "seed approved exceptionally". Finland has four categories, namely: parent, basic, elite and commercial seed. Romania has five categories: parental forms, super-élite, elite seed, certified seed and homologated seed. In Tunisia the seed of all species of agricultural crops is classified into four categories: basic, certified, standard and commercial seed.

## 5. THE INSTITUTIONAL FRAMEWORK - THE ROLE OF THE GOVERNMENT AUTHORITIES

As is only to be expected, the competent authority for seed matters is the Ministry responsible for agriculture. In most cases, the name speaks simply of the Ministry of Agriculture, though certain countries include in the title more or less closely related terms of reference - the Federal Ministry for Food, Agriculture and Forests (Germany), the Ministry of Agriculture, the Food Industry and Water Control (Romania), the Ministry of Agriculture and Land Reform (Morocco).

In most of the countries studied there is a body specifically responsible for seed matters, reporting to the Ministry of Agriculture and endowed with now wide, now less wide, powers.

Sometimes the seed authority has a largely advisory function and generic character. Argentina has its National Seed Committee, which advises on technical, policy and legislative matters. Chile's National Seed Committee advises the Ministry in matters of policy formulation, and programmes for research on and the production and marketing of seed <sup>1/</sup>. In India, a Central Seed Committee advises the Central Government and the State Governments on matters arising out of the administration of the Act. In Tunisia, the National Seed and Planting Material Advisory Committee develops national policy where seed is concerned.

In other countries, the authority in question is no more advisory body but is one that, being part of the Ministry, can act on its own authority. Thus, in Canada, the Department of Agriculture has a Plant Products Division, a body to which the Regulations entrust the enforcement of the Act. In Spain, the Act lays down that the functions vested in the Ministry of Agriculture are to be exercised by the National Seed and Nursery Stock Institute. The latter is a self-governing arm of the Ministry, has corporate status and reports to the Department of Agricultural Production.

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<sup>1/</sup> Chile has recently instituted within the Division of Agriculture a Seed Technical Unit to exercise functions enjoined upon the Agriculture and stock raising service by the 1978 General Regulations and those subsequently delegated to it by the Ministry of Agriculture (of. Resolution No. 282).

There is yet a third group of countries which have an agency with limited terms of reference or a number of bodies each of which is competent for some specific aspect of the matter. In Finland, the task of the Plant Varieties Committee's is to propose varieties which are to be entered in the Register, while the State Seed Control Institute is responsible for imports inspection and for keeping seed traders informed. Matters of a more technical nature are dealt with by the Board of Agriculture. In Uruguay, the views of a Certified Seed Advisory Committee will be sought by the country's Research Centre, before certifying any seed. Morocco's National Seed and Planting Material Selection Committee is competent for the registration of novel varieties in the Official Catalogue.

The necessary co-ordination between the Ministry responsible for agriculture and the seed producers, traders and users is assured through the representation of these groups on the various bodies. The composition and the procedure for the constitution of the latter vary considerably from one country to another. In Argentina the National Seed Committee has a membership of ten appointed by the Ministry of Agriculture, half representing the Government and half the private sector. India's Central Seed Committee has a chairman, eight persons nominated by the Central Government and representing such interests as it thinks fit and one person nominated by each of the States. In Spain, the National Seed and Nursery Stock Institute has a central board on which sit representatives of the Syndical Fraternity of Farmers and Stockbreeders, of the seed producers and of producers of nursery stock. Some countries again, e.g. Morocco and Spain, provide for the co-opting on to such committees of experts and other persons, though in a non-voting capacity.

## 6. QUALITY CONTROL

The aim of all seed legislation, namely to secure the production and use of high quality seed, may be pursued through the agency of any number of rules, some of which differ widely from others. However, in the case of the countries studied here, it is possible to discern two basic approaches. One of these is the truth-in-labelling principle as followed by the United States; the other consists in the prescribing of standards or minimum requirements.

In the United States, then, quality control relies on truth in labelling. This means that the law requires producers and vendors simply to state on the label accompanying their wares certain items of information that will be sufficient to allow the purchaser to buy whichever (in this case seed) appears to him best to suit his purpose. The law does not prescribe what seed may be offered for sale or lay down minimum standards or again establish lists of species or varieties that may be grown or recommended for growing. The decision, rather, is left to the purchaser, who simply is guaranteed that the label statements represent the truth. This approach assumes that the purchaser is able to discern one kind of seed from another.

The system followed by all other countries studied here, however, is that of prescribing minimum standards to be met by the seed. For this purpose, various lists or registers are published in which are entered species or varieties that may be grown or are recommended or recognised, for that purpose; these countries, then, operate on a system not only of control over the information given on the label but also of inspection of, and surveillance over, production processes. There are points of difference between countries, e.g. as to the Regulations of seed not appearing in the lists or registers comes under, as to label statements and as to systems of inspection and law enforcement during the production and marketing stages.

Some countries allow unrestricted sale of seed not included in such lists, and only if seed of varieties so included is to be offered for sale must it comply with the statutory requirements. Thus, in India, the fact of any seed being entered in the list of recognized seed guarantees a minimum germination capacity and purity of the latter, whereas there is no restriction on the circulation of any other seed. In Kenya, varieties appearing in the Index of names of plant varieties must meet the prescribed standards, while varieties not comprised under the definition of the respective classes may circulate freely. In Zambia, the rules apply to seed entered in lists; all other seed may be offered for sale without restriction.

In other countries, again, the system of control does indeed guarantee conformity of seeds appearing in the official lists with minimum standards but precludes the marketing of non-listed seed. This is done either by laying down that the description "seed" may be used only of listed seed (Argentina, Chile, Morocco) or by stating explicitly that only the seed of varieties contemplated in these lists may be used (Canada, Finland, Germany, Romania, Spain, Tunisia, Uruguay).

Programming at the national level in those countries that follow the system of prescribing minimum standards finds its operational expression, from the standpoint of the law and law enforcement, in various lists or registers, each of which will have a specific purpose. This purpose will be evident from the names that the laws assigned to the respective register. One finds registers of cultivable varieties, registers of protected varieties, registers of certified varieties, registers of recommended varieties. Worthy of special note is the register of certified varieties, since certification systems are a cardinal feature of national seed programmes.

The certification system, which is to be found in one form or another in most countries, provides, through the special control operated by the State during the production and marketing stages, a guarantee that the seed is of a high quality - higher than the general run of seed otherwise coming within the purview of the law.

In a number of countries, certification is a voluntary matter. The producer is free to avail himself of the system and comply with the relevant rules, otherwise he must confine his production to seed coming under the general rules only. This situation obtains in those countries, referred to in the section on Basic Concepts and Terminology, which make a distinction between the two classes of seed: Argentina's "identified seed", for example, being subject to general rules, may obtain classification as "controlled seed" if it meets certain additional standards; India's "certified seed", Uruguay's "commercial seed" and Zambia's "prescribed seed" may obtain certification (in the last case provided the system is available for the variety in question).

In the remaining countries, where the certified seed category is one among several, it will be laid down which categories may be employed for a given species or variety (as in Germany). There are also species and varieties where the certified seed category may be the only one.

## 7. SEED PRODUCTION

The laws and regulations deal with seed production mainly under these three aspects: producers, production processes and standards for processed seed.

In a number of countries any person intending to engage in seed production in general must apply for the appropriate registration. Chile has a Register of Seed Producers; Spain requires entry in the Register of Producers for the three currently contemplated categories (producer-breeders, producer-selectors and producer-multipliers) and requires, in addition, the possession of a seed-producer's qualification. In other countries registration is required only of producers of certified seed (Argentina, India, Uruguay, Zambia). These registers provide an instrument of control over the technical potential of the respective producers and thus make it possible to plan the entire seed sector in greater detail. Under the economic system obtaining in Romania, seed production is the affair of the State farms and agricultural production co-operatives.

Producer subsidies are sometimes provided for. In Spain, firms engaging in seed production are eligible for aid from the National Seed Institute and loans from the Agricultural Credit Bank as well as for the benefits contemplated for priority-interest branches of agriculture. In Morocco, subsidies for seed production may be granted by joint order of the Ministers of the Treasury and of Agriculture. The Romanian Government provides the basic materials and technical assistance as well as bearing part of the costs for the production of certain types of seed supplied to co-operative farms. In this connection, the Ministry

organizes annual contests with prizes as tangible incentives for workers in production units.

Most of the countries studied have quality control systems based on the requirement that certain minimum standards shall be met. Their laws accordingly lay emphasis on production processes and the characteristics demanded of processed seed. An exception, here, is the United States, which, as mentioned earlier, relies on the truth in labelling principle, there being no rules governing seed production as such but each producer is free to employ whatever procedures he sees fit; is only when he proposes to produce certified seed that he is required to conform to the standards imposed by the certifying agencies.

Production processes and seed standards are usually the subject of detailed regulation. Examples may be mentioned in the laws of Canada, Germany, India, Spain, Uruguay and Zambia. Where possible, reference is made in the respective country studied to commonly met with cereals.

## 8. MARKETING

As mentioned in the section on quality control, the purpose of the various lists or registers is to provide a means of, among other things, establishing those species or varieties of which the seed may be offered for sale.

Some countries, next, require persons engaging in commerce to be registered. In Argentina, persons selling seed must apply for registration in the Seed Trade Register; in Chile, admission to a similarly named register is required in order to engage in commerce in seed. Spain requires any corporation or individual undertaking the storage or sale of seed to be entered in the relevant book or register, only those possessing the Seed Producer qualification being exempt from this requirement. The reason for this is that the title automatically entitles the holder to sell his wares throughout the national territory. In Finland, those desirous of engaging in trade in seed or in importing or exporting this commodity must give notice of their intention at least a month prior to commencing activities. In Morocco, seed and planting material may be traded by agencies authorized for the purpose by the Minister of Agriculture. Uruguay has a Register of seed merchants. In Zambia, any person wishing to sell seed must apply for the relevant licence.

Coming, next, to the question of contractual liability, one may note that in general there is a vendor's warranty as to the specific and varietal trueness of the seed and as to the conformity of the latter with any other rules of commerce. Germany affirms this principle, with the additional feature that, if he can show that any shortcoming in quality was not his fault, the court may limit the vendor's liability for compensating the purchaser, where such compensation might result in a grave injustice. In Chile, the fact of making over seed implies a warranty as genuineness, purity, germination and state of health of the product. If the seed does not come up to the guaranteed standards, the purchaser may sue for damages, by summary or ordinary process, at his choice. In Finland, the purchaser is under no obligation to take delivery of seed which fails to conform to the requirements indicated on the label where tolerances are concerned. Any user aggrieved as a result of incorrect labelling must be compensated by the packer or the vendor whose negligence gave rise to the grievance. In Romania, the production units producing or supplying seed are responsible for its germinative capacity and quality and must compensate purchasers for any loss caused to them through the supply of defective materials.

In Uruguay, if seed does not come up to the required standards, the vendor must reimburse the purchaser the cost and freight of the seed, irrespective of any penalties that the law may impose.

Mention should be made of the laws of Kenya and Zambia for their special provisions affecting contractual liability. Now, in Kenya, breach of the Regulations does not of itself affect the validity of a contract of sale or the right to demand performance. For Zambia, failure to observe the rules governing packaging and labelling in the case of prescribed

seed and in the case of certified seed sold in bulk does not void the contract or remove the right to demand performance. It is only where certified seed is sold in sealed packages that observance of the packaging and closure rules is deemed an essential element of the contract.

Where packaging, closure and labelling rules are concerned, all the countries studied here legislate in considerable detail.

As a general principle, all seed must be packaged. Bulk sales are prohibited except in special circumstances and even here the prescribed documents must accompany the merchandise. Different rules may apply, as in Canada and Germany, to packages over, or less than, a given weight. Usually, packaging operations are to be carried out in the presence or under the control of an official from the appropriate authority.

All packages must have a closure device or system such that once they are opened further use is precluded. Both the sealing process - the closure itself having a limited period of validity - and the operations of dividing the contents of the original packages into smaller ones must be done in the presence of an official or under the direct responsibility of an authorized person.

Sealed packages must have attached to them the information necessary for the purchaser to appreciate the contents. This is usually printed on labels but is often impressed in an indelible fashion on the package itself. It must be given in the official language(s) and the contents of the label will vary according to the species and class of the seed. There are different kinds of labels - official, producer's, interna l/ external certification labels, etc. Some countries (e.g. Germany, India, Spain) even specify dimensions and colour-coding - this with a view to facilitating identification.

Examples of rules governing packaging, labelling and sealing will be found in the country studies for Argentina, Canada, Germany, India, United States and Yugoslavia. For the United States these rules are of cardinal importance since seed control hinges on the truth-in-labelling principle. Yugoslav law deals mainly with rules governing packaging and labelling.

Some of the countries have provisions relating to extension work and publicity, notably in relation to the granting of aid to the purchaser or user and in control over advertising. In Chile, it is prohibited to offer to the public through the agency of advertisements, circulars or any other means of publicity seed that does not come up to the required standards. In Spain, the Ministry of Agriculture is empowered, with a view to promoting the use among farmers of seed of controlled production, to provide aid funded from the national investment programmes for the purchase of such seed. The date on which it received approval must appear in the relevant publicity. This rule does not apply to price lists or to trade advertisements which do not contain any technical matter, provided, however, these have been authorized in general terms. In India, educational programmes are contemplated with a view to promoting the use of certified seed. Lists of certified seed growers and sources of such seed are published. In Kenya, the Minister may, in order to ensure that adequate information is afforded, make regulations regarding information as to the nature, condition and quality of seed intended for sale. Uruguay provides credit to farmers for purchases of seed.

## 9. LAW ENFORCEMENT

The rules governing inspection and law enforcement have a twofold function. On the one hand they are an expression of the power of the State to coerce (a necessary function, this, since the law will be a dead letter if there is no enforcement arm to control the various phases of production and marketing). At the same time, this function can and must be an active one, making for the smooth development of the entire seed sector. For the institutions responsible for inspection and control do not confine their activities simply to policing but exert a positive influence - through the official laboratories and testing stations and

thanks to collaboration with inspectors - in raising seed standards and in encouraging the right sort of awareness among farmers.

All countries studied here have rules providing for inspection. In the United States, with its system based on the truth-in-labelling principle, inspection is designed to check the veracity of label statements (an exception obtains in the case of certified seed, which comes under the special control of the certifying agencies). In all other countries control concerns itself with production processes, minimum requirements regarding the seed, and the marketing stage.

At the production stage, law enforcement mainly takes the form of the inspection of registers (where these are prescribed) and of fields where the seed is being grown, and sample taking and conducting laboratory, pre-control and post-control tests. Rules governing the marketing stage call for the inspection of premises and the firm's books by official inspectors and, sometimes, for the keeping of goods-in/goods-out registers.

Inspectors are in most cases civil servants. They may have access at any reasonable hour to premises where seed is kept and may examine any documentary material having to do with that seed, in particular any registers which it is required by law to keep (Finland, Germany). Examples of powers vested in inspectors can be seen in the legislation of Argentina, Canada, Chile, Finland, India, Kenya, United States and Zambia.

Sample taking and laboratory analyses constitute a vital component of the law enforcement process and are covered in varying degrees of detail by all countries studied (see, in this connection, Germany, Spain and Yugoslavia).

For the marketing stage some countries prescribe special control over goods entering and leaving. Thus, in Spain, seed in storage is controlled by means of a Register to be kept by all warehouses and recording all goods entering or leaving. In India, those engaging in commerce in notified seed are required to keep a register of sales and another register of stocks in hand. Morocco prescribes that bodies authorized to sell seed of species and varieties covered by a technical regulation must send in monthly returns of purchases and sales to the Ministry of Agriculture.

## 10. IMPORTS AND EXPORTS

In one way or another seed imports and exports come under State control, with distinct rules applying to the respective operations.

Where imports are concerned, most of the countries studied lay down for imported seed similar rules to those governing seed produced in the country. In Germany, virtually the same packaging, labelling and closure rules apply in both cases. In Argentina imported seed comes within the scope of the Act. Canada has a single schedule containing varieties of seeds that may be sold in or imported into Canada: once it arrives at the port of entry, seed must be analysed and graded. Chile authorizes the importation of seed in the case of species and varieties that have already been tested in the country. For species and varieties not known there, the seed may be imported provided evidence is forthcoming as to their agricultural value. Spain in general applies the law governing domestic seed and, in fact, more often than not refers to "producers and importers" together. In India, seed of notified kinds or varieties may be not imported unless it meets certain minimum requirements as regards germinative capacity and purity and the package is labelled in the statutory manner. Morocco requires varieties and species coming from abroad to carry the same description in the country of origin and to be entered in the same Official Catalogue as that for Moroccan seed and planting material. In Yugoslavia, imported seed is treated in the same way as nationally produced seed as regards packaging, closure and labelling requirements.

The seed laws of certain countries confine themselves, where imports are concerned, to stating the general principle that these may be restricted or promoted as best suits those countries' purposes. Thus, in Finland, the Minister is empowered to restrict or prohibit imports of seed that is unsuitable for cultivation in the country. In Kenya, the Minister is empowered to prohibit imports of seed that may cause deterioration of domestic seed or is unsuitable for the climate of the country. In Romania, the principle is affirmed that cooperation between countries, whether socialist or not, is to be encouraged with a view to evolving new varieties and enhancing production. Among the means to this end are indicated the importation and exportation of seed under bilateral and multilateral treaties.

The legislation of the United States where seed imports are concerned departs somewhat from the truth-in-labelling principle, though certain label statements are still required but certain minimum standards are also imposed.

To guarantee these minimum standards, imported seed must be subjected to the various analyses before it may be marketed.

In Zambia, which has its Register of Seed Importers, the Minister may make regulations governing seed imports and may at any time determine restricted seed - i.e. seed of any kind where imports require registration or are restricted or otherwise subject to conditions or prohibited altogether.

In several countries imports are subject to more liberal rules where the seed is to be used for multiplication for re-export purposes. Thus, in Germany, imports may be permitted of seed not complying with the general rules if the seed is to be used for research or for multiplication for subsequent re-export. In Canada, seed of varieties not included in the varieties of seeds that may be sold in, or imported into, the country (except for certain varieties of cereals) may be imported for experiment purposes or for producing seed for export. In Chile, experiment stations may import any species or variety for research purposes, while seed imported for the purpose of multiplication for export is subject to no restrictions whatever other than those relative to plant health. In Spain, authorization may be given for the production of seed intended exclusively for export where such seed fails to meet the requirements laid down for inclusion in the Register of Commercial Varieties. In Morocco, the Official Catalogue may include varieties or types of plants where the seed may be multiplied in the country provided this is done exclusively for export.

Turning now to exports, one may note that several countries have no restrictions whatever. In the case of Germany, exports to countries outside the European Community (where, of course, Community rules apply) do not come under the same restrictive rules as those in force within the country. In the United States no rules are laid down for exports of seed beyond those prohibiting the giving of false information in foreign trade. In certain countries seed intended for export is subject to the same or nearly the same rules as those applying to other seed. In Canada, for instance, the following general principle applies, namely, that unless the Regulations provide otherwise, no one may sell, import or export seed that does not comply with the established rules or is not marked, packaged and labelled according to the rules in force. In India, seed belonging to a notified kind or variety may be exported only if it conforms to the minimum limits of germination and purity and the package is labelled as prescribed. In the legislation of Uruguay the export of seed is permitted only if the country's needs are unaffected thereby.

## 11. OFFENCES AND PENALTIES

In most cases the main infringements of the law are explicitly mentioned. Sometimes, a general statement is simply made to the effect that any act in contravention of the law is deemed to be an offence punishable with specified penalties.

Penalties usually take the form of fines; less frequently a term of imprisonment is imposed. Generally speaking, second offences attract severer penalties. Almost all legislative systems examined provide for the confiscation of any seed involved in an offence.

A noteworthy case is that of Argentina, where, in addition to fines, the further penalty may be imposed of suspending registration in the National Seed Trade and Control Register; also that of Spain, which prescribes special penalties applicable to offences committed in connection with products intended for export, where the fine may be doubled. As a general rule the ordinary courts have jurisdiction in seed matters also. Special provisions may be noted in Germany, where the administrative authority enjoying competence ratione materiae is, depending on the type of offence, the Federal Food and Forests Office, in respect of offences involving exports, the Federal Office of Varieties for offences in matters coming within that Office's purview, and the Principal Office of Customs of the area where the offence was committed, if that offence concerned import procedures. In Chile, appeals against fines may be lodged with the Provincial Agrarian Tribunal of the place where the offence was reported. In Kenya, there is a special Seeds and Plants Tribunal which has jurisdiction for appeals against decisions affecting entry in the Index of names of varieties of plants, in any matters affecting the protection of a breeder's rights and other matters provided for in the law.



PART II

Country Studies



## ARGENTINA

### CURRENT LAWS AND REGULATIONS

Act No, 20.247. - Seeds and Novel Plant Varieties Act. - 30 March 1973. - Boletín oficial No. 22.648, 16 April 1973.

Decree No. 989 instituting the Seed Traders' Register 28 March 1974. - B.O. No. 22.887, 5 April 1974, p. 3.

Resolution No. 348 authorizing the dispatch abroad of plant breeding material. - 20 September 1976. - B.O. No. 23.449, 28 September 1976, p. 3.

Earlier Argentina legislation consisted of a series of provisions to encourage plant breeding 1/. These were superseded by the present Act, the entire subject matter receiving a thorough overhaul in such a way as to provide a foundation for future rulemaking. Given the previous approach, it is not surprising to find the scope of the new Act encompassing not only seed but also newly evolved strains, as the title explicitly states and, as a logical consequence, the protection of breeders' rights, these last being dealt with in Chapter V 2/. This circumstance explains the importance attached by the new Act to the protection of plant breeders' rights 3/.

### OBJECT AND SCOPE

The 1973 Act seeks to promote efficiency in seed production and marketing, to guarantee farmers consistent genetic identity and quality of the seed they buy and to protect plant breeders' rights 4/.

Where seed is concerned, the Act is wide in scope, the definition of seed encompassing seedlings, cuttings, shoots, tubers, bulbs, etc. It also applies to all plant species without exception.

### BASIC CONCEPTS AND TERMINOLOGY

Definitions are given of "seed" and "novel plant variety" 5/.

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1/ Cf. the "Memorandum to the Government" accompanying the Bill which was to pass into law as Act No. 20.247 (cited first above and superseding Act No. 12.253 of 1973, 1920-1940, 670, in particular the Chapter entitled "Promotion of Plant Breeding"), in Anales de Legislación Argentina. Bol. 12 (1973) pp. 24-30.

2/ Act No. 20.247, 1973, secs. 19 to 30.

3/ An English translation in extenso was published in World Intellectual Property Organization: Industrial Property. 1973, p. 375 ff., Geneva, Switzerland, December 1973.

4/ Act No. 20.247, sec. 1.

5/ Ibid., sec. 2.

Seed ( semilla or simiente) means any botanical structure intended for sowing or other form of propagation. There are two classes of seed 1/, namely:

- (a) identified seed (semilla identificada), i.e. seed where the label on the packaging contains a certain number of statements 2/;
- (b) controlled seed (semilla fiscalizada), i.e. seed which, in addition to meeting the requirements for identified seed and having performed well in officially approved tests, is subjected to official control during the various stages of the production cycle. There is a further subdivision within the controlled seed class into:
  - "original seed" (basic or foundation),
  - "certified seed", in the various grades.

Provision is made for the establishment, by regulation, of other categories within the above classes.

"Novel Plant Variety" (creación fitogenética) means any cultivar obtained through discovery or by the application of scientific principles to the inheritable improvement of plants 3/.

## ROLE OF THE GOVERNMENT AUTHORITIES

The government department responsible for seed matters is the Ministry of Agriculture, which administers the Act and prescribes requirements, standards and general tolerances for the various classes, categories and species of seed 4/.

The Act appoints a National Seed Committee, an advisory body reporting to the Ministry of Agriculture, with the following terms of reference:

- (a) to propose rules and interpretative criteria for the enforcement of the Act;
- (b) to indicate those species that are to be brought under the controlled seed rules;
- (c) to take cognizance of all matters put to it under the Act and its Regulations by the technical services of the Ministry of Agriculture;
- (d) to examine and evaluate drafts of government policy documents, bills, decrees, resolutions and other dispositions taken at the national, provincial and municipal levels having to do with the Act or with government agencies for the marketing of agricultural production;
- (e) to examine the facts of offences under the Act, and propose as appropriate the penalties provided for thereunder;
- (f) to settle matters of a technical nature in dispute between the various services of the Ministry and any persons engaging in the identification, marketing, disposal of, or otherwise using, seed within the purview of the Act and any regulations thereunder;
- (g) to propose to the Ministry scales of fees and to the Government any measure conducive to the most efficient administration of the Act.

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1/ Act No. 20.247, Sec. 10.

2/ Ibid., sec. 9; cf also under the heading Marketing.

3/ Ibid., sec. 2.

4/ Ibid., sec 3.

The National Seed Committee has a membership of ten appointed by the Minister of Agriculture. Five members are civil servants representing the Government (two from the National Agricultural Control and Marketing Directorate, two from the National Agricultural Technology Institute and one from the National Grains Board), while the other five represent the private sector (one from the plant breeders, two from the producers and tradesmen and two from the consumers). The private sector members are appointed upon nomination by the bodies most representative of the branch in question. Their terms of office is two years, renewable. The Minister appoints from among the Government representatives the Chairman and Deputy Chairman of the Committee. Attached to the latter is a permanent technical secretariat.

The principle of private enterprise is upheld within the limits of the existing laws, through this is no bar to the Minister, acting on the advice of the Committee, prohibiting, attaching special conditions and standards to, whether temporarily or permanently and throughout the National territory or for parts of it, the production, multiplication, distribution, promotion or marketing of any seed, when in his opinion it is advisable to do so for agronomic reasons or otherwise in the general interest 1/.

## QUALITY CONTROL

At the time the Act was passed, Argentina had only one seed class (controlled seed), which, moreover, applied to only a few crops, such as wheat and potatoes. The "identified seed" class had yet to be introduced, while the popularly referred-to "common seed", to which no special guarantees attached, accounted for the bulk of sowings 2/. Under the new Act, the object is to have "common seed" replaced by "identified seed", and controlled seed used on an ever wider scale.

Identified seed is taken to be what its description states - from the simple fact of its being identifiable by reference to specifications appearing on the label. Controlled seed, on the other hand, whether "original" or "certified", must undergo full-scale controlled certification as prescribed by the Ministry of Agriculture. The ministry, acting on the advice of the National Seed Committee, will have all controlled species which enjoyed that status prior to the entry into force of the Act kept under the controlled production rules, and is empowered, furthermore, to bring mandatorily under the controlled seed system the production of other useful species.

Quality control is assured chiefly by means of three Registers concerning, respectively, crops, ownership of cultivare, and persons engaging in seed-related activities.

Identified seed - this being a class to which, as a minimum requirement, all seed must belong, is entered in the National Register of Cultivare 3/. This is an official catalogue of cultivare or varieties, and in it must be entered any seed that is identified and contributes to the standardization process, to the notoriety of the cultivar and to obviating the occurrence of synonyms. Entry in this register does not confer ownership rights.

With a view to protecting the rights of those who discover or evolve novel strains there is a specific National Register of Ownership of Cultivare 4/. Ownership title in respect of a given cultivar is granted for a duration of not less than ten and not more than twenty years, and is subject to certain restrictions (the cultivar may be used by third parties with a view to breeding another strain; it may be declared for "restricted public use" for

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1/ Act No. 20.247, sec. 15.

2/ Memorandum to the Government accompanying the Bill. Published in Anales de Legislación Argentina. Loc. cit., p. 27.

3/ Act No. 20.247, 1973, secs. 15 to 18.

4/ Ibid., secs. 19 to 30.

not more than two years and against equitable compensation, where the country's supplies of specified seeds are concerned). Provision is made for encouraging plant breeding activities by means of subsidies, special credit, tax exemption and incentive prizes 1/.

The two registers described have no direct connection with controlled seed, information as to the latter being ascertainable from the lists mandatorily published by the Ministry for this purpose.

Finally, there is the National Seed Trade and Control Register, in which are entered all persons importing, exporting, or producing controlled seed, processing, analysing, identifying or selling seed 2/.

## PRODUCTION

As already noted, producers of controlled seed must be entered in the National Seed Trade and Control Register.

Rules governing production are prescribed in specific regulations.

## MARKETING

The obligation incumbent upon those selling seed to be entered in the previously mentioned register has since been extended by the institution, in 1974, of the Seed Traders' Register 3/.

Seed may be sold - under that description - only if it has been obtained from registered cultivare. The person whose name appears in the relevant register is liable for the correct labelling of any seed made over to another person. Should the seed for any reason fail to comply with the statutory requirements, the vendor is under an obligation to reimburse the purchaser the cost of the seed and of the freight.

The correct labelling for identified seed must supply the following information at least 4/:

1. Name and address of the person identifying the seed and his registered number.
2. Name and address of the tradesman selling the seed and his registered number, if he is different from the person identifying the seed.
3. Common name of the species and the botanical name for those species where prescribed by regulation. Mixed seed must be labelled as such.
4. Name of cultivar; varietal purity (if qualifying - otherwise the description "common" must be used).
5. Percentage purity both physical and botanical, by weight, if the values are below those prescribed by regulation.
6. Percentage germination, together with date of test (month and year), if this is below the value prescribed by regulation.

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1/ Act No. 20.247, 1973, secs. 32 and 33.

2/ Ibid., sec. 13.

3/ Decree No. 989 of 1974.

4/ Act No. 20.247, 1973, sec. 9.

7. Percentage weed seed, where this is required by regulation.
8. Net contents.
9. Tear of harvesting.
10. Origin of imported seed.
11. Category of the seed, if applicable.
12. The statement "seed treated with poison" in red lettering, if the seed has been treated with any toxic substance.

In the case of controlled seed the labels must be official labels and the use to which the seed has been put must be vouched for within a time-limit to be prescribed by regulation 1/.

It is prohibited under penalty of a fine to advertise in such a way as to mislead or as to fail to supply or to falsify statutorily required information 2/.

## LAW ENFORCEMENT

Inspection and control are the responsibility of the Ministry of Agriculture. Officials may at any time or place inspect, take samples of, and carry out tests and analyses on, any seed that is stored, transported, sold, offered or exposed for sale. They may have access to any premises where seed is to be found and may require and inspect any documentary material relating thereto. They may detain, or prohibit the sale or removal of, any lot of seed which they have reason to believe has been involved in an offence, though such detention or prohibition may have force for not more than 30 days. For these operations the Ministry of Agriculture may demand the cooperation of other officials bodies and call in police help 3/.

Monies accruing from fees, fines, etc., and allocations provided for in the general budget of the State are to be paid into a special account referred as the Seeds Act Account, to fund payments for services, subsidies and prizes. Credit balances are carried over to the next financial year 4/.

## IMPORTS AND EXPORTS

Imports and exports come within the purview of the Act and are governed by rules issued by the Government. Where the quality of any seed is a matter of dispute, the international rules governing testing methods and procedures for analyses and tolerances apply 5/.

A resolution has been issued recently authorizing dispatch out of the country of "plant breeding material" - and under that generic description - for purposes of experiment or multiplication any lines, selections, hybrids and varieties in the process of constitution or otherwise original, of cereals and oil crops. Such authorization is reserved for officially controlled nurseries. Export applications must be filed with the National Seed Service in each case 6/.

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1/ Act No. 20.247, 1973, sec. 42.

2/ Ibid., art. 38.

3/ Ibid., secs. 44 and 45.

4/ Ibid., sec 34.

5/ Ibid., secs. 11 and 12.

6/ Resolution, 1976, p. 3.

## PENALTIES AND OFFENCES

The law contemplates a wide range of offences, and specifies penalties for these. Thus, if any person exposes for sale or makes over for gain or otherwise any seed that is not identified in the prescribed manner he will receive a warning, if such acts are done in error or through omission, otherwise he will be punished with a fine of from 100 to 100 000 pesos and the confiscation of the merchandise. A person making over seed of cultivare not entered in the national Register of Cultivers or advertises in such a way as to mislead regarding the quality of the seed is punished with a fine of from 1000 to 100 000 pesos. Where the offence consists in an infringement of a plant breeder's rights or involves any act in contravention of a specific provision of the Ministry where seed is concerned, the fine may be from 2000 to 100 000 peses.

In addition to these fines, the penalty may entail suspension of registration in the National Seed Trade and Control Register.

Offences are dealt with by the Ministry acting on the advice of the National Seed Committee. Persons on whom a penalty has been imposed may appeal to the Ministry within ten working days. Should the Ministry reject this appeal, the matter may be appealed to the Federal Courts within 30 days, but the fine must be paid meanwhile.

The application of the above fines is no bar to that of penalties for other breaches of the law that may also have occurred.

## CANADA

### CURRENT LAWS AND REGULATIONS

The Seeds Act. - An act respecting the testing, inspection and sale of seeds. - 8 July 1959. - Revised Statutes of Canada 1970, Vol. VI, Chap. P-1/S-8.

Seeds Regulations. Regulations respecting the testing, inspection and sale of seeds including seed potatoes. - 15 July 1960. - SOR/61-332, Canada Gazette Part, II, Vol. 94, No. 15, 10 August 1960, p. 985, as notified by the following:

- SOR/61-73. - 16 February 1961. - C.G., Part II, Vol. 95, No. 5, 8 March 1961, p. 277.
- SOR/61-504. - 16 November 1961. - C.G., Part II, Vol. 95, No. 23, 13 December 1961, p. 1698.
- SOR/62-481. - 13 December 1962. - C.G., Part II, Vol. 96, No. 24, 26 December 1962, p. 132.
- SOR/64-174. - 30 April 1964. - C.G., Part II, Vol. 98, No. 9, 13 May 1964, p. 525.
- SOR/65-85. - 25 February 1965. - C.G., Part. II, Vo. 99, No. 5, 10 March 1965, p. 277.
- SOR/65-441. - 2 September 1965. - C.G., Part II, Vol. 99, No. 18, 22 September 1965, p. 1416.
- SOR /67-203. - 20 April 1967. - C.G., Part. II, Vol. 101, No. 9, 10 May 1967, p. 715.
- SOR/70-197. - 12 May 1970. - C.G., Part. II, Vol. 104, No. 10, 27 May 1970, p. 541.
- SOR/73-717. - 12 December 1973. - C.G., Part II, Vol. 107, No. 24, 26 December 1973, p. 297.
- SOR/76-244. - 7 April 1976. - C.G.. Part II, No. 8, 28 April 1976, p. 1266.
- SOR/76-764. - 19 November 1976. - C.G., Part II, No. 23, 8 December 1976, p. 3140.

Seed Variety Order. - Order respecting varieties of seeds that may be sold in Canada or imported into Canada. - 7 April 1977. - SOR/77-322, C.G., Part II, Vol. 111, No. 8, p. 1889.

### OBJECT AND SCOPE

The object of Canadian legislation is simply that stated in the long titles of the Act and the Regulations. Both enactments prescribe rules governing analysis, inspection and sale of seeds, and no more.

As indicated by the definition of "seed", the legislation applies to the seed of any crop other than flowers and trees. Up to 1976 the Regulations did not apply to seed potatoes. In November of that year the text was amended in such a way that the Regulations as they had stood until then became Part I (Seeds Other Than Seed Potatoes), while a Part II (Seed Potatoes) was added 1/.

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1/ SOR/76-764.

## BASIC CONCEPTS AND TERMINOLOGY

By "seed" is understood the seed of any cereal, forage, legume, turf, root, vegetable, tobacco, fibre or oil bearing crop that is grown, sold or represented for sale for the purposes of propagation 1/.

Several grade of seeds are contemplated as governed by the number of generations. For each grade, different requirements as to freedom from noxious weeds, genetic purity and percentage germination apply 2/. These grades are as follows:

Canada Foundation No. 1  
Canada Foundation No. 2

Canada Registered No. 1  
Canada Registered No. 2

Canada Certified No. 1  
Canada Certified No. 2

Canada No. 1 Seed  
Canada No. 2 Seed  
Canada No. 3 Seed

Foundation, Registered and Certified grades are reserved to seed meeting requirements specified in each case by the Canadian Seed Growers' Association, and are attested by the appropriate certificates 3/. Apart from Foundation seed, to which special rules apply 4/, all seed tested by the Association (and graded Registered or Certified) are further subjected to field inspection ("seed crop inspection") 5/ with special reference to varietal purity, the presence of weeds, and isolation from other crops. Canada No. 1, 2 and 3 seeds do not carry with them the guarantees implied in such inspection.

In the case of seed potatoes, the grades are Elite (I, II, III), Foundation (grown from Elite I), and Certified (grown from Elite or Foundation) 6/.

Variety has the meaning assigned to cultivar by the International Association of Biological Science's Commission on the Nomenclature of Cultivated Plants: it denotes an assemblage of cultivated plants, including hybrids, constituted by controlled cross pollination, that are distinguished by common morphological, physiological, cytological, chemical or other characteristics and retain their distinguishing characteristics when reproduced 7/.

A further point of interest in this connection is the recognition of "approved certifying agencies", namely organizations in foreign states approved by Canada for the purpose of certifying the varietal purity of seed 8/.

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1/ Act, 1959, sec. 2.

2/ Regulations, 1960, secs. 4 and 5, and the 18 tables in Schedule A.

3/ Ibid., sec. 2.d., ga-i, n. sec. 3.1.

4/ Ibid., sec. 3.1.

5/ Ibid., sec. 27.

6/ Ibid., as amended by SOR/76-764.

7/ Regulations, 1960, sec. 2.q.

8/ Ibid., sec. 2.c.

## THE ROLE OF THE GOVERNMENT AUTHORITIES

The Act empowers the Governor in Council to make regulations, *inter alia*, establishing grades, prescribing the terms and conditions governing seed inspection and grading and testing, prescribing minimum standards of purity and germination, respecting the packing and marking of seeds, prescribing the terms and conditions under which variety names of seeds may be used, for waiving the operation of the Act, respecting the taking of samples and respecting fees 1/. The Act also empowers the Minister of Agriculture to prescribe, by order, the varieties of seeds that may be sold or imported, and the species of plants the seeds of which are deemed to be weeds 2/.

The Department of Agriculture has a Plant Products Division, which for all practical purposes is the enforcement agency.

## QUALITY CONTROL

The main purpose of the Act and the Regulations is to provide an organized framework for controlling the sale and importation of seed. The Minister of Agriculture prescribes the varieties of seed that may be sold in, or imported into, the country. These are set out in a schedule to the Seeds Varieties Order (latest version: 14 April 1974, superseding that of 30 October 1973) 3/. The varieties so listed must meet certain minimum standards laid down in the Regulations, mainly as regards mechanical purity, genetic purity and germination and, in some cases, moisture. The standards differ according to the grade concerned (Registered, Certified, etc.).

One distinguishing feature of Canadian legislation is that seed intended for sale 4/ (horticultural seed excepted) is required to carry an indication of the grade to which it has been assigned. This ensures that information on seed is readily perceived and in a uniform fashion.

In the matter of seed certification the Act vests responsibility for establishing grades requiring varietal purity in the Canadian Seed Grower's Association 5/, while the Regulations 6/ require the Association to establish standards for the production of Certified, Registered and Foundation seed. In the case of 58 kinds of seed 7/ the name of any of the listed varieties may be used only if the seed has been assigned to one or other of the higher quality grades (Foundation, Registered or Certified) 8/. In other words all these seeds - and among them there are a number of forage plants, wheat, barley and oats - must belong to one or other of these grades if it is the intention to sell them under the name of the variety in question.

Neither the Act nor the Regulations provide for plant breeders' rights.

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1/ Act, 1959, sec. 4.1.

2/ *Ibid.*, sec. 4.2.

3/ Seed Varieties Order.

4/ Regulations, 1960, sec, 7.

5/ Act, 1959, sec. 4.1a.

6/ Regulations, 1960, sec. 2.b, d, ga.i.

7/ Schedule B.

8/ Regulations, 1960, sec. 9.3.

## PRODUCTION

### Growers

Repeated mention is made in the Regulations of the Canadian Seed Growers' Association and of its function in the control of quality seed. No specific rules are given as regards a register of growers or as regards production contracts were the occasion for these to arise 1/.

### Requirements in respect of production processes and processed seed

The eighteen tables making up Schedule A to the Regulations prescribe the standard grade for the respective seeds, in particular as regards the absence of other, including weed, seeds, and percentage germination. Production processes are not explicitly mentioned, since these are the province of the Canadian Seed Growers' Association, and apply only to Foundation, Registered and Certified seed. Part II of the Regulations, however (seed potatoes), is more specific in this matter. An example of these grade standards - those applying to common wheat and durum wheat - are now given 2/:

Grade name	Maximum number of seeds per pound *			Minimum Percentage Germination
	Noxious weed seed	Total weed seed	Total other crop **	
Canada Registered No. 1	0	3	0.25	85
Canada Registered No. 2	2 *** per bushel	10	1.0	75
Canada Certified No. 1	0	5	1.0	85
Canada Certified No. 2	2 **** per peck	10	3.0	75
Canada No. 1 seed	1	15	10.0	85
Canada No. 2 seed	8	50	50.0	70

\* 1 pound - 453.6 g.

\*\* Additional seeds of common wheat may be allowed in Durum what as follows: five in Canada Certified No. 1, ten in Canada Certified No. 2, fifteen in Canada No. 1 seed, 25 in Canada No. 2 seed (Reg. 5.1.C, cf. SOR/76-244).

\*\*\* 1 bushel - 35.240 litres, equivalent to 60 lbs.

\*\*\*\* 1 peck - 8.8 litres, equivalent to 15 lbs.

The other tables in Schedule A similarly give grade standards for each group or class of seeds.

In addition to the above requirements prescribed for the respective classes, all seeds must comply with the general standards such as those requiring freedom from weed seed and prohibiting the mixing of Registered or Certified seed with other seeds 3/, unless authorized by an inspector in the case of Certified seed. All the number 1 grades (Foundation No. 1,

1/ Cf. H.R. Parnell, "Seed legislation in Canada", in Proc. Int. Seed Text. Ass., Vol. 32, 1967, No. 2, p. 433, which speaks of the existence of an efficient organization for these matters.

2/ Schedule A, 1.

3/ Regulations, 1960, sec. 5.

Registered No. 1, Certified No. 1, and Canada No. 1 seed), Certified No. 1 (cereal) Mixture and No. 1 Mixture must be uniform and sound, may not contain an excessive amount of moisture or be heated or musty, must be reasonably free from undesirable seed and inert matter, and may not be discoloured by weathering, staining or other factors that will seriously impair its utility 2/. More recently, in April 1976, further standards have been introduced for certain kinds of plants, e.g. cereal mixtures 2/.

In the case of seed potatoes, the main requirements are those relative to the number of inspections, soundness and varietal purity. The example given below concerns Certified seed potatoes, which must be grown from Elite I, II or III or Foundation and satisfy the following requirements:

- inspection twice during the growing season;
- the percentage of plants showing varietal mixture or symptoms of diseases at the first or second inspection not to exceed the values given below:

Disease and Varietal Mixture		Percentage on First Inspection	Percentage on Second Inspection
1.	Bacterial ring rot	0	0
2.	Any one virus	1.0	0.5
3.	Total all viruses	2.0	1.0
4.	Total wilts, blackleg and viruses	3.0	2.0
5.	Varietal mixture	1.0	0.1

## MARKETING

### General

Seed may be sold if it figures in the schedules among those that are prescribed as varieties that may be sold in or imported into Canada 3/.

### Packaging; sealing; labelling

The Act states the principle that for seed to be sold in, imported into or exported out of, Canada, it must be marked and packed and labelled as prescribed 4/.

There are general labelling rules and special rules for the various groups of seeds. The general requirements are that the prescribed information shall be shown conspicuously, legibly and indelibly in either or both official languages (English and French) on the tag, label or exterior surface of the package in a size and of a type and colour that can be easily read, and that no label or package may show any incorrect or misleading information or any brand name or mark that might be construed as the name of the variety 5/.

1/ Regulations, 1960, sec. 5.e.

2/ Ibid., sec. 5.g, 5.1, 5.2, 5.3, introduced by SOR/76-244.

3/ Seeds Variety Order ' - SCR/77-322.

4/ Act, 1959, sec. 3.

5/ Regulations, 1960, sec. 10, as amended by SOR/73-717.

Every package of seed must bear a label indicating the weed seed content 1/. Packages containing two ounces or more of seed must be marked with the net weight; in the case of tobacco seed, marking of the net weight is required from one ounce upward. Where the package contains more than five pounds of seed the lot designation must be marked on it 2/. Where the seed has been treated with pest control products it must be thoroughly stained and the labelling must include the precautionary symbol and signal word prescribed under the Pest Control Products Act, together with the warning: "Do not use for food or feed. This seed has been treated with.... (name of pest control product)" 3/.

Special rules are laid down for seed of field crops 4/, roots and vegetables 5/, onions 6/, forage crops 7/ and lawn grass mixtures 8/. Also given are the special rules governing the mandatory use of official tags on packages of Canada Registered or Canada Certified seed 9/.

For seeds of field crops the following information must be given: the name and address of the seller; name of the Kind of the seed and, of the variety if the seed is pedigreed; grade; in the case of corn (maize), the month and year of the germination test and type of corn, and, in the case of mixtures of cereals of one or more varieties, the names and percentages of each.

For seeds of roots and vegetable crops, in addition to the name and address of the seller, the grade, the kind and variety must be given (but only if the sale is made on the basis of grade). Otherwise, the labelling must state the year in which the seed was tested for germination, the variety and in the case of mixtures of varieties the name and the percentage of each.

For forage crop seed there must be stated the name and address of the seller, the kind and the grade; also, the variety in the case of Registered or Certified seed, and the country of origin (for imported alfalfa and red clover). There are also special requirements as regards certain kinds of clover and for mixtures of forage crop seeds.

Registered seed and Certified seed are governed by rules of their own. Thus, they must be tagged and sealed with an official tag and seal supplied by the Plant Products Division 10/. Only certified seed of wheat, oats, barley, rye and flax may be sold in bulk for seeding by the purchaser and by sellers authorized for this purpose by the Division. Here, too, however, the seed must be accompanied by a statement setting out the information required to be stated on an official tag 11/.

The official tag accompanying Registered or Certified seed must contain the following information: the names of the kind of seed, variety, and grade, the crop certificate number and the seed sealing certificate number 12/. In the case of imported seed, the labels and seals of the foreign certifying agency, as supplied by the Division, must be filled in. These labels must also indicate the country and the foreign agency's reference number 13/.

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1/ Regulations, 1960, sec. 12.

2/ Ibid., sec. 13.

3/ Ibid., sec. 14.

4/ Ibid., secs. 16 and 17.

5/ Ibid., sec. 18.

6/ Ibid., sec. 19.

7/ Ibid., sec. 20 and 21.

8/ Ibid., sec. 22.

9/ Ibid., secs. 23 to 26.

10/ Ibid., sec. 23.

11/ Ibid., sec. 14A, introduced by SOR/73-717.

12/ Ibid., , sec. 23.

13/ Ibid., sec. 24.2, introduced by SOR/73-717.

Labels and seals must be applied to packages by an inspector or by otherwise authorized persons 1/.

## LAW ENFORCEMENT

The taking of samples and the testing of seeds are regulated by the Governor in Council 2/. Inspectors and analysts are appointed within the purview of the Public Service Employment Act 3/. Inspectors may at any reasonable time enter any place where they reasonably believe there is any seed to which the Act applies, open any package and take samples of the seed, and require persons to produce for inspection their books, waybills and similar documents 4/. The owner or person in charge must give all reasonable assistance to the inspectors; they may not obstruct them in the carrying out of their duties or make to them false or misleading statements whether verbally or in writing 5/.

An inspector may seize seed in connection with which he has reasonable grounds to believe that an offence has been committed. The seed is then detained until such time as the inspector considers that the provisions of the Act have been complied with, but not beyond six months or beyond the conclusion of any proceedings if these have been instituted in the meantime 6/.

Seed crop (field) inspection is confined to crops for the production of seed of the Registered and Certified classes and special seed crops approved by the Director of the Plant Products Division 7/ and for the production of seed potatoes 8/. Inspections are carried out following application by the grower, subject to the specified period of notice 9/.

Sampling procedures 10/ and methods and procedures of analysis 11/ are subject to approval by the Director of the Plant Products Division.

Seed crop inspection and seed analysis entail the payment of fees 12/.

## IMPORTS AND EXPORTS

The Act lays down the general principle that except as provided by the Regulations no one may import or export seed that fails to conform to the prescribed standards or is not marked, packed and labelled as prescribed.

Imported seed is exempted from certain labelling requirements 13/. Once at the port of entry, the seed is analysed and assigned to the appropriate grade. If it does not comply with the minimum requirements prescribed by the Regulations and if the importer fails within six months to have the seed cleaned and otherwise brought into conformity with those requirements, it must be removed from Canada or destroyed (the six-month time limit does not apply to sugarbeet seed) 14/.

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1/ Ibid., sec. 25-3, introduced by SOR/73-717.

2/ Act, 1959, sec. 4.g.

3/ Ibid., sec. 5.

4/ Ibid., sec. 6.

5/ Ibid., sec. 8.

6/ Ibid., sec. 7 and Regulations, 1960, sec. 38.

7/ Regulations, 1960, sec. 27.

8/ Ibid., sec. 48 and tables in Schedule, Annex A, introduced by SOR/76-764.

9/ Ibid., sec. 27.2.

10/ Ibid., secs. 28 and following.

11/ Ibid., sec. 29.

12/ Ibid., sec. 39 and Schedule C. Regulations, 1960, sec. 15-3, introduced by SOR/73-717, Ibid., secs. 33 and 34.

The Regulations prescribe special standards for imports of red clover and alfalfa 1/.

With the exception of spring wheat, durum wheat and spring barley, the seed of varieties not included in the List of Varieties the import and sale of which is permitted may be imported for experiment purposes or for the production of seed intended for export 2/.

Exports of seed are governed by the general principle referred to in the first paragraph of this section 3/.

## OFFENCES AND PENALTIES

Any person who, or whose employee or agent, violates any provisions of the Act or any regulation made thereunder is liable to the following penalties: upon summary conviction, a fine not exceeding 500 dollars or a term of imprisonment not exceeding six months or both such fine and imprisonment; upon conviction on indictment, a fine not exceeding 2000 dollars or in a term of imprisonment not exceeding one year, or both such fine and imprisonment 4/. The seed in either case is forfeited 5/.

Summary proceedings are subject to the following limitations: they must be instituted within two years where the offence is a misrepresentation of the variety name or purity of a variety, or within six months in the case of other offences 6/.

A complaint or information in respect of an offence may be heard, tried or determined by a magistrate in whose district the accused is resident even though the matter of the complaint or information did not arise in that territorial jurisdiction 7/.

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1/ Regulations, 1960, sec. 36.

2/ Ibid., sec. 37.

3/ H.R. Parnell, loc. cit., p. 431, points out that in practice, exports come within the purview of the Regulations only if the seed is labelled with one of the Canadian grades.

4/ Act, 1959, sec. 9.

5/ Ibid., sec. 7.3.

6/ Ibid., sec. 10.

7/ Ibid., sec. 12.

## CHILE

### CURRENT LAWS AND REGULATIONS

Decree-Law No. 1.764 prescribing rules governing scientific research on, and the production and marketing of, seed 1/. - 28 April 1977. - Diario Oficial No. 29.747, 30 April 1977, p. 1461.

Decree No. 443 prescribing provisional rules governing the organization and operation of the Register of Owners of Varieties instituted by Decree-Law No. 1.764 of 1977, and vesting specified powers in the Agricultural Service 2/. - 26 October 1977. - D.O. No. 29.936, 14 December 1977, p. 3879.

Decree No. 447 prescribing rules governing the composition, organization and functioning of the National Seed Committee. - 3 November 1977. - D.O. No. 29.967, 19 January 1978, p. 438.

Resolution No. 282 instituting a Technical Seeds Unit within the Crop Protection Division. - 1 February 1978. - D.O. No. 29-982, 6 February 1978, p. 895.

Decree No. 188 approving the General Regulations under Decree-Law No. 1.764 of 1977 in respect of field crop seed. - 12 June 1978. - D.O. No. 30.147, 23 August 1978, p. 3213.

Decree No. 589 prescribing marketing rules for ordinary seed. - 2 November 1978. - D.O. No. 30.213, 13 November 1978, p. 4211.

Resolution No. 2.938 extenta, prescribing general seed certification rules as indicated. - 30 November 1978. - D.O. No. 30.252, 30 December 1978, p. 4817.

Chilean seed legislation has undergone a number of changes in recent years. The 1944 Act 2/ was the governing enactment for a considerable period, i.e. until the promulgation in 1970 of Decree with force of Law No. 3 of the Ministry of Agriculture relative to the production, processing and marketing of seed 3/, this in turn being superseded in 1977 by the abovementioned Decree-Law No. 1.764.

This 1977 Decree-Law constitutes a thoroughgoing revision of the subject matter. Provision is made for the issuance of revised regulations, pending which those regulations not in conflict with the Decree-Law remain in force. Hitherto regulations have been issued on the Register of Owners of Varieties and on the National Seed Committee. The General Regulations under this Decree-Law have also been issued.

This same Decree-Law No. 1.764 of 1977 states the principles governing the protection of plant breeders' rights, enforcement rules being issued by the abovementioned Decree No. 443 of 1977 and by the 1978 General Regulations.

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1/ For a summary of this Decree-Law see FAO Food and Agricultural Legislation Vol. XXVI, No. 2.

2/ See article by E.J. Fuentes P.: The seed law in Chile and basic principles for seed laws in developing countries in "Proc. Int. Seed Test. Ass." Vol. 32 (1967) No. 2, pp. 445-451.

3/ Decree with Force of Law No. 3 of the Ministry of Agriculture, 14 July 1970. - Diario Oficial No. 27.750, 17 September 1970, p. 3210, as amended by Decree-Law No. 1.209, 13 October 1975. Diario Oficial No. 29.288, 24 October 1975. p. 3389.

## OBJECT UND SCOPE

The Decree-Law covers all seed except that of fruit bearing species and forest seed. Special regulations are to be issued where the application of the Decree-Law to these latter two types of seed is concerned 1/.

## BASIC CONCEPTS AND TERMINOLOGY

"Seed" is defined as "any seed, tuber or bulb and in general any planting material or plant organism which is intended for the sexual or vegetative propagation of a botanical species" 2/.

The following terms are also defined: parental material, pre-basic (or genetic) seed, basic (or foundation) seed, certified seed and commercial or ordinary seed 3/, thus:

Parental material is the smallest unit which is used by a breeder to maintain his cultivar and from which all seed of the cultivar is obtained through one or more generations.

Pre-basic (or genetic) seed is seed obtained from parent material over a limited number of generations determined by the breeder and reported to the certifying authority in such a way as to ensure a sufficient quantity of basic, or foundation, seed.

Basic (or foundation) seed is seed obtained from pre-basic, or genetic, seed or from approved material of a local cultivar which has been reproduced under the responsibility of the breeder according to generally accepted practice for the maintenance of the cultivar and is intended for the production of certified seed, and has been tested for compliance with the general and special rules approved by the certifying authority.

Certified seed is seed obtained from basic seed of a variety intended for the production of certified seed, or of any consumer commodity, that has been subjected to a production process itself approved and officially inspected by the seed certifying authority.

Ordinary seed (semilla corriente) is seed which has not been certified but meets requirements laid down in the General Regulations and under other relevant rules.

In the matter of varieties or cultivars, the definitions distinguish between variety/ cultivar in general and local cultivar, or ecotype, and improved cultivar 4/, thus:

Variety or cultivar is defined as an assemblage of cultivated plants or botanical individuals which are distinguishable from others of the same species by one or more characters of a morphological, physiological, cytological, chemical or other nature of interest from the standpoint agriculture, forestry, horticulture or fruit-growing and in general for other cultivated plant and which, when reproduced sexually or asexually, retains those distinguishing characters.

Local cultivar, or ecotype refers to a cultivar originating in a well-defined region that has been shown as a result of official testing to possess sufficient uniformity and stability such as to guarantee that it will continue to be distinguishable and recognizable as such, and which, in addition, has not been obtained by means of genetic manipulation.

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1/ Decree-Law no. 1.764 of 1977, art. 1.

2/ Decree-Law No. 1.764 of 1977, art. 2, as well as General Regulations of 1978, art. 1a.

3/ General Regulations of 1978, art. 1, h-1.

4/ Decree-Law No. 1.764 of 1977, and General Regulations, 1978, art. 1, b, f, g.

Improved cultivar (cultivar mejorado) is a cultivar evolved by a plant breeder through a process of genetic manipulation.

The 1978 General Regulations also contain the definitions of "breeder" (creador or obtentor), "seed producer", "seed multiplier", "genuineness or "botanical identity", "purity", "germination or germinativo capacity", "seed mixture", "agricultural value", "species or proven variety", "testing", "trials", "classification", "cleaning", "selection" and "labelling".

## ROLE OF THE GOVERNMENT AUTHORITIES 1/

The authority responsible for seed matters is the Ministry of Agriculture. This Ministry formulates national policy, develops plans and programmes, exercises tutelary responsibilities and directs, supervises and coordinates all activities having to do with seed. It also prepares drafts of international agreements and keeps the implementation of the latter under review.

For the practical implementation of these terms of reference, the Ministry has a Technical Seed Unit to deal with all matters concerning research, production and marketing, and especially the scheme for the varietal certification of seed as used by the OECD 2/, and all questions affecting the Register of Owners of Varieties 3/. The work of this Unit is declared to be in the national interest and its decisions constitute legislative rulemaking. The Unit is also responsible for the tasks assigned to the Agricultural Service under the 1978 General Regulations and for those delegated to it subsequent to that date by the Ministry of Agriculture 4/.

Under the terms of the same Decree-Law there is also appointed a National Seed Committee, a collegiate body called upon to advise the Ministry of Agriculture in the formulation of policy, plans and programmes for research, production and where marketing seed is concerned. The composition, organization and function of this Committee were determined in 1977 5/.

The principle of private enterprise is affirmed. Thus, anyone may engage in research on and the production and marketing of seed subject only to the requirement of observing the regulations in force.

## QUALITY CONTROL

There is a "Register of Owners of Varieties (Cultivare)", the organization and functioning of which were provided for in the provisional regulations in 1977 6/, and later, by the 1978 General Regulations 7/. This register has a twofold purpose, namely to constitute and protect the rights of breeders of new varieties, and to determine which varieties may be certified 8/.

Ownership rights will be protected for a period determined case by case 9/. Limitations are imposed on the exercise of such rights when, say, the production of the variety in question is greatly in the interests of the national economy or where the variety is made of use by third parties for the sole purpose of breeding another variety. Under the terms of the Decree-Law, the President of the Republic is to prescribe, within a year, those varieties or

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1/ Decree-Law No. 1.764 of 1977, arts. 3 to 6.

2/ Resolution No. 282, 1978.

3/ General Regulations, 1978, art. 2.

4/ Ibid.

5/ Decree No. 447, 1977.

6/ Decree No. 443, 1977.

7/ General Regulations, 1978, Title II, arts, 3 to 41.

8/ Decree-Law No. 1.764, 1977, arts. 1 to 13.

9/ Decree-Law No. 1.764, 1977, art. 8.

cultivars which may be registered. Classification of varieties for the purpose of their listing in the Register is carried out by the Seed Classification Committee, whose membership includes one representative of the public sector, one of the Universities and another from the private sector nominated by the Ministry of Agriculture from among experts and professional persons in the field of genetics, botany, and agronomy. The rulings of the Classification Committee may be appealed to the Provincial Agrarian Tribunal within whose area of territorial competence the person affected resides 1/.

As regards certification it is laid down that only those varieties and cultivare may be certified that are listed in the Register of Owners of Varieties (cultivare) 2/. The regulations prescribe the conditions governing such listing 3/, which will be of indefinite duration (arts. 22 of Decree-Law No. 1.764 of 1977).

Certification is understood as being that planned for the procedure control of the production and processing of seed whereby seed so certified may be relied upon to retain satisfactory identity and varietal purity 4/.

Certification is the responsibility of the Ministry of Agriculture, which issues rules, both general and special, governing the procedure for the respective species and for each variety or cultivar. The Ministry is also responsible for supervising any activities entering into the certification process when these are performed by corporate bodies under public or private law 5/.

Any person may engage in research designed to improve varieties of plants, for the evolving of new varieties and the maintenance of these. Those so engaging for commercial purposes are required to be entered in the Register of Experiment Stations, which is in the keeping of the Ministry of Agriculture.

## PRODUCTION

Within the meaning of Decree-Law No. 1.764 of 1977, the term "production" includes the selection, processing, packaging and in general any form of handling of seed in such a way as to render it suitable for use by the purchaser 6/.

Notwithstanding this definition, which has its importance as regards listing in the various registers, the Decree-Law itself deals with packaging under Marketing and not under Production.

### Producers

The Ministry of Agriculture is to establish registers of seed producers, while the Regulations are to prescribe in which of these registers it is mandatory for seed producers to be listed, as well as the conditions with which they must comply in order to qualify for listing, as governed by their category or the phase of the production process in which they are engaged 7/.

### Requirements in respect of the production process and of processed seed

Decree-Law No. 1.764 of 1977 provides that regulations to be issued in due course are to lay down methods of production, percentages and levels of genuineness, purity, germination, sanitary condition etc., of seed.

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1/ Decree-Law No. 1.764, 1977, arts. 10 and 11.

2/ Ibid., art. 21.

3/ Decree No, 443, 1977, art. 11.

4/ Decree-Law No. 1.764, 1977, art. 19.

5/ Ibid., art. 20.

6/ Ibid., art. 17.

7/ Decree-Law No. 1.764, art. 18, and General Regulations, 1978, Title IV.

## MARKETING

### General conditions

To engage in seed marketing, the person concerned must be entered in the Seed Trade Register maintained by the Ministry of Agriculture 1/.

Seed may be sold or otherwise made over as such to third parties only if it meets the requirements laid down by Decree-Law No. 1.764 of 1977 and the regulations issued thereunder. The fact of making over seed implies a guarantee as to the genuineness, purity, germination and sanitary condition of the product. Should the seed prove not to correspond to these guarantees, the purchaser may sue for damages under summary or ordinary procedures. The judgement given by the court of first instance may be appealed. If summary proceedings are chosen, any appeal against the ruling of the court of first instance may not have the effect of staying execution of that ruling.

### Packaging, closure, labelling

All seed made over to third parties must be packaged. The package must bear a label describing guaranteeing and the contents. The respective regulations are to prescribe rules governing packaging, labels and labelling and marks 2/.

### Extension; publicity

The Decree-Law contains no rules governing these matters. It simply prohibits the offer to the public by means of advertisements, circulars or other means of publicity of any seed not meeting statutory requirements.

## LAW ENFORCEMENT 3/

The Ministry of Agriculture is responsible for seed law enforcement, and has inspectors for this purpose. These are sworn officers for the purpose of inspecting the production, processing and marketing of seed, and for taking samples of the latter. They enjoy unhindered access to farms, selection instations, warehouses, shops, customs sheds and other premises where seed is produced, stored or sold. Where necessary, they may call in the police. They may order a temporary (up to 30 days) prohibition of the sale of seed while analyses are carried out. If the results of these analyses are unfavourable, the Ministry of Agriculture may order the reclassification, processing, consumption or destruction of the seed concerned.

## IMPORTS AND EXPORTS 4/

It is permitted to import into Chile seed of species and varieties that have already been tested. Also provided they have been tested, seed of fruit crops, forest species, flowers and ornamental plants may be imported. In the case of species or varieties not known in Chile, imports of these may be authorized once their agricultural value has been established. Registered Experiment Stations may import any species or variety for research purposes, subject only to the phytosanitary regulations and to approval by the Ministry of Agriculture.

Seed imported for further multiplication and subsequent export are not subject to any restrictions except as regards the phytosanitary regulations. Once imported, all seed is subject to Chilean regulations and to approval by the Ministry of Agriculture.

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1/ General Regulations, 1978, Title V, art. 79.

2/ Decree-Law No. 1.764, arts. 25-26, and General Regulations, 1978, Title V.

3/ Ibid., arts. 30-32, and General Regulations, 1978, Title VI.

4/ Secree-Law No. 1.764, 1977, art. 29, and General Regulation, 1978, arts. 103-110.

#### OFFENCES AND PENALTIES 1/

It is prohibited to offer for sale seed that does not meet statutory requirements, to make improper use of descriptions, or to market or to sow seed that has been imported for consumption or for purposes other than reproduction.

Specific fines are instituted for certain types of offences. Thus, any person producing or marketing seed without the consent of the owner of the variety, or any person advertising for sale or otherwise making over to third parties any seed not complying with the regulations, is punished with a fine of up to 100 tax units. If he engages in production, sale, distribution or brokerage without being listed in the appropriate register, he is liable to a fine of up to 50 such units. In the case of second and subsequent offences, the penalty is doubled. Offences for which no penalty is specifically prescribed are punished administratively by the Ministry of Agriculture with a fine of up to 30 tax units. The Ministry of Agriculture is also empowered to order the suspension or cancellation of registrations and to order the seizure of seed involved in any offence.

Fines may be appealed to the Provincial Agrarian Tribunal of the place where the offence was committed.

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1/ Decree-Law No. 1.764, 1977, arts. 28-33-37, and General Regulations, 1978, Title VII.

## FINLAND

### CURRENT LAWS AND REGULATIONS

Act No. 13 to promote seed production. - 10 January 1975. - Finlands Författningssamling 10-19, 15 January 1975, p. 21.

Ordinance No. 227 for the enforcement of the Act to promote seed production. - 27 March 1975. - F.F. 224-232, 3 April 1975, p. 477.

Act No. 669: The Seed Trade Act, together with the Seed Trade Ordinance. - 25 August 1975. - F.F. 669-673, 28 August 1975, p. 1321 and p. 1357, respectively 1/.

- Resolution No. 690 concerning imports of certain seeds. - 27 August 1975. - F.F. 684-691, 1 September 1975, p. 1357.
- Resolution No. 960 concerning the packaging of seed. - 15 December 1975. - F.F. 955-964, 17 December 1975, p. 1855.
- Resolution No. 243 concerning varieties of the major plant species. - 13 February 1976. - F.F. 242-243, 15 March 1976, p. 519.
- Ordinance No. 441 amending the Seed Trade Ordinance. - 27 May 1976. - F.F. 434-445, 2 June 1976, p. 892.
- Resolution No. 598 concerning the keeping of seed trade registers. - 1 July 1976. - F.F. 590-600, 9 July 1976, p. 1145.

### OBJECT AND SCOPE

The enactments cited above are designed principally to promote the production of and trade in seed and planting material. The objectives are twofold, namely, to promote the production of seed of approved species within the country and of guaranteeing the supply of the suitable seed for its various regions 2/.

Current regulations apply to agricultural and horticultural seed 3/.

### BASIC CONCEPTS AND TERMINOLOGY

The principal definition given is that of seed. This term refers to seed and planting material of agricultural and horticultural species intended for sowing or planting 4/.

The following categories of seed are contemplated: parental seed, basic seed, elite seed and commercial seed 5/. Thus:

Parental seed is seed, produced by the breeder or by the owner of a variety, which meets statutory requirements 6/.

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1/ These two enactments are summarized in FAO Food and Agricultural Legislation, Vol. XXVI, No. 1, p. 67.

2/ Seed Production Act, 1975, sec. 1.

3/ Seed Trade Act, 1975, sec. 1.

4/ Ibid.

5/ Seed Trade Ordinance, 1975, art. 10, as amended by the 1976 Ordinance.

6/ Ibid.

Basic seed is seed which, in addition to meeting other requirements, has been produced from parental seed controlled by the breeder or owner. If there is no breeder in the case of a particular variety or if the breeder does not make available seed for maintaining the variety, the basic seed may be obtained from seed which, being derived from varietal material approved by the State Seed Control Institute, has been produced for one or more generations under the supervision of the latter 1/.

Elite seed is seed which has been obtained from parental seed or basic seed for one or more generations under the supervision of the State Seed Control Institute 2/.

Commercial seed is seed obtained from parental seed or basic seed or elite seed for one or more generations and has been inspected by the Institute during cultivation 3/.

The number of generations permitted for basic, elite and commercial seed of the respective species is determined by the Institute 4/.

## THE ROLE OF THE GOVERNMENT AUTHORITIES

The appropriate authority is the Ministry of Agriculture and Forests. Seed law enforcement is carried out by the State Seed Control Institute, by the Board of Agriculture and, when the latter so orders, by the agricultural offices of the respective districts and by the municipal agricultural boards 5/. The principal activities of the major bodies are described in what follows.

The Ministry of Agriculture and Forests may inter alia determine which seed is to be sold in packages, or produced and sold under the control of the Institute 6/. It may prescribe the keeping of registers of seed merchants and packers 7/; prohibit or limit imports or exports of seed 8/; determine that seed of only those species that are entered in the Register of Cultivated Varieties may be sold 9/; appoint the Plant Varieties Committee. The last-mentioned, whose members hold office for three years, must include representatives of the State Seed Control Institute, the Board of Agriculture, experiment and extension activities, producers and users of seed, the food industry and the seed trade 10/. The terms of reference of the Committee are to propose to the Board of Agriculture inclusions in the Register of Cultivated Varieties 11/.

The State Seed Control Institute is responsible, inter alia, for controlling imports of seed 12/ by means of sampling or other procedures, for controlling information given by tradesmen 13/, and conducting analysis of seed at the request of the purchaser 14/.

The Board of Agriculture issues seed packaging licences 15/; determines the desirability or otherwise of attaching to imported seed a mark distinguishing it from home-produced seed 16/; keeps the Register of Cultivated Varieties 17/, and determines which varieties shall be deleted from the Register 18/ and lays down requirements governing the principal seeds 19/.

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1/ Seed Trade Ordinance, 1975, art. 10, as amended by the 1976 Ordinance.

2/ Ibid.

3/ Ibid., as amended by the 1976 Ordinance.

4/ Ibid., art. 4.

5/ Seed Trade Act, sec. 2.

6/ Seed Trade Act, 1975, sec. 4.

7/ Ibid., sec. 5.

8/ Ibid., sec. 7.

9/ Ibid., sec. 8.

10/ Ibid., and Seed Trade Ordinance, 1975, art. 9.

11/ Seed Trade Act, 1975, sec. 8.

12/ Ibid., sec. 6.

13/ Ibid., sec. 11.

14/ Ibid., sec. 12.

15/ Ibid., sec. 4.

16/ Ibid., sec. 6.

17/ Ibid., sec. 7.

18/ Ibid., sec. 8.

19/ Seed Trade Ordinance, 1975, art. 7.

## QUALITY CONTROL

The hinge of the whole system is the Register of Cultivated Varieties, kept by the Board of Agriculture. In it are entered varieties whose cultivation has yielded satisfactory results 1/. For this purpose there was published, in 1976, a list of varieties of agricultural and horticultural plants together with the names of producers and indications of the areas where it is recommended that the seed may be used 2/.

Of the varieties listed in the Register of Cultivated Varieties only those may be marketed where the seed has been obtained from reproduction material controlled by the breeder or from genetic material approved by the State Seed Control Institute with reference to a quality-based classification scheme to be determined by Ordinance 3/. At the present time the classification scheme in question covers the categories of seed mentioned earlier under Basic Concept (parental seed, basic seed, elite seed and commercial seed) 4/.

## PRODUCTION

The Board of Agriculture responsible for prescribing conditions to be met by the principal seed products 5/ is empowered to prescribe rules governing the cultivation and production of the respective categories of seed 6/.

## MARKETING

### General provisions

Persons intending to engage in the sale, importation or exportation of seed must give notice of their intention not less than one month before commencing activities 7/. As with all other rules referring to sales, this one applies only to public sales, i.e., sale in markets or the offer for sale and sale through advertisement in the press, circulars, price-lists and the like 8/. The rules do not apply, however, to private sales made by the producer direct to the purchaser 9/. Nor is prior notification necessary when the producer sells seed "publicly" but incidentally to other activities 10/ or in the case of the retail sale of seed in packages that have accompanying them all statutory information and the guarantee of a person who has duly complied with prior notification formality 11/.

Only seed of varieties listed in the Register of Cultivated Varieties may be marketed; and it must further satisfy the conditions applicable to the category in question (parent seed, basic seed, elite seed, commercial seed) 12/. The Board of Agriculture may permit the sale of non-standard seed if necessary in order to ensure supplies 13/.

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1/ Seed Trade Act, 1975, sec. 8

2/ Varieties Resolution, 1976.

3/ Seed Trade Act, 1975, sec. 9.

4/ Seed Trade Ordinance, 1975, art. 10.

5/ Seed Trade Act, 1975, sec. 10.

6/ Seed Trade Ordinance, 1975, art. 10.

7/ Seed Trade Act, 1975, sec. 3.

8/ Ibid., sec. 1; Seed Trade Ordinance, 1975, art. 1.

9/ Seed Trade Act, 1975, sec. 1.

10/ Ibid., sec. 3.

11/ Seed Trade Act, 1975, sec. 3.

12/ See under Quality Control.

13/ Seed Trade Act, 1975, secs. 9 and 10; Seed Trade Ordinance, 1975, arts. 10 and 11.

The following rules govern contractual liability: the purchaser needs not accept seed which fails to comply with the tolerances referred to in the accompanying statement 1/ Any harm occasioned by incorrect statements must be redressed by the person who prepared or packaged the seed. The same liability rests with a vendor who through negligence causes harm in this way 2/.

Packaging; sealing; labelling

A licence issued by the Board of Agriculture is required in order to engage in these activities. The Board grants such licences to those who have the trained staff, appropriate technical facilities and professional qualifications for the purpose 3/.

Any seed offered for retail sale must be sold in closed containers, each of which must have attached to it a certificate of guarantee as prescribed by the Board of Agriculture 4/. A bulk batch of seed may be sold at the request of the purchaser and provided the requisite licence has been obtained from the State Seed Control Institute. The batch in question must still be accompanied by a guarantee certificate 5/.

Each guarantee certificate must give:

- the number of the inspection certificate issued by the State Seed Control Institute and the official batch stamp;
- the name of the packer, in the case of retail sale in packages, or the mark of the vendor in the case of wholesale transactions;
- the name of the plant species and, save where the State Seed Control Institute determines otherwise, the name of the variety;
- the category of the seed;
- the characteristics which the Board of Agriculture prescribes shall appear in the statement where minimum quality requirements apply;
- in the case of mixtures, the germination capacity of each component;
- in the case of imported seed, an indication to this effect (this rule does not apply to ornamental plants);
- the period of validity of the guarantee certificate;
- any other information prescribed by the Board of Agriculture 6/.

The vendor must base his own label statement on the information contained in the certificate of analysis of samples drawn by a sample taker authorized for the purpose by the State Seed Control Institute or (subject to the consent of that Institute) On the statement of a foreign authority in the case of imported seed or, again (in this case with the consent of the Board of Agriculture), on the results of trials conducted by the appropriate State Control Laboratory where cereal seed supplies are concerned 7/.

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1/ Seed Trade Act, 1975, sec. 12.

2/ Ibid., sec. 16.

3/ Ibid., sec. 4.

4/ Ibid., sec. 4; Seed Trade Ordinance, 1975, art. 12.

5/ Seed Trade Ordinance, 1975, art. 12.

6/ Seed Trade Act, 1975, sec. 11; Seed Trade Ordinance, 1975, art. 13.

7/ Seed Trade Act, 1975, sec. 11.

Seed produced and packaged under the control of the State Seed Control Institute may bear an official seal or mark approved by the Board of Agriculture 1/.

#### Extension and publicity

A recent Act and its enforcement Ordinance 2/ deal comprehensively with the promotion of seed production. Among the affected crops are red clover, alsike clover, fescue, red fescue and timothy grass. The Council of State may extend the list 3/. Promotion is largely a matter of production subsidies.

#### LAW ENFORCEMENT

Enforcement is the responsibility of the State Seed Control Institute and the Board of Agriculture and their subsidiary bodies. For this purpose the agricultural advisory organizations may be coopted 4/.

Persons engaging in trade or related activities are required to keep registers for not less than three years - this to facilitate control by the authorities 5/.

The issuance of the inspection certificate, the latter being necessary in order to obtain the guarantee certificate, calls for the taking of one or more samples of each commercial batch as instructed by the State Seed Control Institute. Samples must be taken by persons duly authorized by that Institute 6/. The same procedures are to be followed whenever a purchaser requires an analysis of the products he has bought 7/. Analyses and controls carried out pursuant to the Act or the Regulations entail the payment of the prescribed fees, except for those carried out on the instructions of the appropriate authority 8/. The authority in question may in the exercise of its functions enter fields and packaging and storage premises, take samples without making payment therefor, inspect commercial registers and, where the seed does not meet the prescribed standards, prohibit the sale thereof pending the ruling of the State Seed Control Institute, to which samples must be sent forthwith in these cases 9/.

#### IMPORTS AND EXPORTS

The Ministry of Agriculture and Forests may, in consultation with the Board of Agriculture, lay down for a stated period or until further notice limitations or prohibitions governing imports or exports of seed. Where an import is prohibited, it must be because the characteristics of the species or variety render the seed unsuitable for cultivation in Finland or are such as to give rise to the propagation of disease or noxious weeds. For limitations or prohibitions to be imposed on exports, there must be a danger that unrestricted exports of seed may lead to a shortage in Finland itself 10/.

Persons intending to engage in import and export activities are required to give at least one month's notice before commencing those activities 11/. Imported seed must be stored in a place approved by the National Seed Control Institute until such time as the latter has carried out an inspection, by sampling or other procedures, or has stated that inspection is not necessary. The importer must give to the Institute sufficient notice of the consignment and supply it, or whoever is acting on its behalf, with documents stating the provenance and the intending purchaser as well as furnishing other

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1/ Seed Trade Ordinance, 1975, art. 12.

2/ Seed Production Act, 1975; Seed Production Ordinance, 1975.

3/ Seed Trade Act, 1975, sec. 2.

4/ Ibid., sec. 2.

5/ Ibid., sec. 5; Seed Trade Ordinance, 1975, art. 4.

6/ Seed Trade Ordinance, 1975, art. 15.

7/ Seed Trade Act, 1975, sec. 12.

8/ Ibid., sec. 13.

9/ Ibid., sec. 14.

10/ Ibid., sec. 7.

11/ Ibid., sec. 3.

data given by the original supplier 1/. The Board of Agriculture may require that imported seed be marked in a specified manner, such seed to be at all times distinguishable from nationally produced seed 2/. Seed deemed to be unsuitable to be imported must be returned to the source or destroyed by the importer or, again, treated as ordered by the Ministry of Agriculture and Forests 3/.

#### OFFENCES AND PENALTIES

Persons committing an offence under the Act or contravening any of the rules issued pursuant thereto are liable to be punished (unless heavier penalties are prescribed under the terms of other laws) with a fine or, in particularly serious cases, with up to six months' imprisonment. The products involved in the offence are confiscated.

The State Seed Control Institute on behalf of the Government prosecutes in the courts in the case of serious offences. For minor offences the law does not require the Institute to take legal action 4/.

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1/ Seed Trade Act, 1975, sec. 6; Seed Trade Ordinance, 1975, art. 5.

2/ Seed Trade Act, 1975, sec. 6.

3/ Ibid.

4/ Ibid., sec. 15.

## GERMANY (Federal Republic')

### CURRENT LAWS AND REGULATIONS

Seed Trade Act. - 20 May 1968, - Bundesgesetzblatt I, No. 31, 25 May 1968, p. 444 1/.

- Act to amend the Seed Trade Act.-22 May 1975. - BGBL I, No. 57, 24 May 1975, p. 1157.
- Consolidated Seed Trade Act as notified on 23 June 1975 in BGBL I, No. 69, 26 June 1975, P. 1453 2/.

Ordinance concerning notification of intended importation of seed and certain planting material. - 24 June 1975' - BGBL I, No. 70, 27 June 1975, p. 1496 3/.

Ordinance concerning the List of Species. - 2 July 1975. - BGBL I, No. 75, 4 July 1975, p. 1649 3/.

Ordinance concerning the List of Varieties and Varietal Inspection. - 2 July 1975. - BGBL I, No. 75, 4 July 1975, p. 1654 3/.

Ordinance concerning the seed of cereals, grasses, agricultural legumes, oil and fibre plants, row crops other than potatoes. - 2 July 1975. - BGBL I, No. 75, 4 July 1975, p. 1659 3/.

Ordinance concerning potato planting material. - 2. July 1975. - BGBL I, No. 75, 4 July 1975, p. 1690 3/.

Ordinance concerning vegetable seed. - 2 July 1975. - BGBL I, No. 75, 4 July 1975, p. 1703 3/.

Ordinance concerning vine planting material (production and rootstocks). - 2 July 1975. -BGBL I, No. 75, 4 July 1975, p. 1727 3/.

Ordinance concerning the Seed Control Register. - 16 December 1977. - BGBL I, No. 85, 20 December 1977, p. 2579.

Ordinance amending certain provisions of the regulations under the Seed Trade Act. - 23 June 1978. - BGBL I, No. 33, 28 June 1978, p. 773.

### OBJECT AND SCOPE

No specific object other than that indicated in the title of the Act is stated. The Act applies to seed for sowing and planting material of genera, species and subspecies appearing in the List of Species (Artenverzeichnis) published by the Federal Minister for Food, Agriculture and Forests 4/. The List currently includes nine cereals, 22 grasses, 19 agricultural legumes, 11 oil and fibre plants, four root crops and tubers (except potatoes), vines and 29 vegetable species 5/.

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1/ A translation of this Act was published in extenso in FAO Food and Agricultural Legislation, Vol. XIX, No. 1, fasc. 5.

2/ A summary of the main innovations was published in FAO Food and Agricultural Legislation, Vol. XXV, No. 1, p. 41.

3/ This was published in summary form in FAO Food and Agricultural Legislation, Vol. XXV, No. 2, pp. 53 to 61. The three Ordinances (Cereals, Potatoes, Vegetables) were amended by the Ordinance of 23 May 1977, BGBL I, No. 30, 25 May 1977, p. 756.

4/ Act, 1968/1975, art. 1.1.

5/ Ordinance (List of species), 1975.

## BASIC CONCEPTS AND TERMINOLOGY

Within the meaning of the Act and of the current subsidiary legislation, by seed is to be understood:

1. seed intended for plant production; and
2. planting material of potatoes and vines, the latter comprising shoots and cuttings 1/.

The following categories of seed and planting material are contemplated: Basic seed, Certified seed, Standard seed, Standard planting material, Commercial seed and Auxiliary seed 2/.

Basic seed (Basissaatgut) is seed produced in accordance with the principles of systematic maintenance and improvement by the breeder, or under his supervision and instructions, intended for the production of Certified seed and recognized as Basic seed 3/. A similar definition and virtually identical provisions apply to Basic planting material 4/.

Recognition as Basic seed is conditional upon the following: the variety must be entered in the List of Varieties (Sortenliste); the area where it is cultivated must have the prescribed dimensions and other characteristics; the seed must meet the special requirements prescribed by Ordinance for given varieties; for entry in the List of Varieties 5/, the seed must meet any other requirements laid down, in particular as regards the characteristics of generations preceding Basic seed and restrictions on areas where it is cultivated 6/.

Certified seed (Zertifiziertes Saatgut) is seed grown directly from recognized Basic seed or seed recognized as being from generations preceding Basic seed which is not intended for the production of seed and has been recognized as Certified seed 7/. Certified planting material receives a similar definition and set of rules 8/. Certified planting material for potatoes may also be obtained directly from Certified planting material in its turn obtained directly from Basic planting material or planting material of a generation preceding Basic planting material 9/.

The conditions governing recognition as Certified seed are the same as those for Basic seed, allowing for such technical differences as may be introduced by the respective ordinances 10/.

Standard planting material (Standardpflanzgut) is planting material from determinate varieties of vines, which has been recognized as Standard planting material 11/. As a condition for recognition it must be entered in the List of Varieties, be grown on land conforming to the prescribed standards, and meet the standards prescribed for inclusion in the List of Varieties, in particular as regards the characteristics of generations preceding Basic seed and restrictions affecting growing areas' 12/.

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1/ Act, 1968/1975, art. 2.1 and 2.2.

2/ Ibid., art. 2.3.

3/ Ibid., art. 5.1.

4/ Ibid., art. 5.2.

5/ Ibid., art. 59.4.

6/ Ibid., art. 7.

7/ Ibid., art. 6.1.

8/ Ibid., art. 6.2.

9/ Ibid., art. 6.3.

10/ Ibid., art. 7.1.

11/ Ibid., art. 17.1.

12/ Ibid., art. 17.2.

Standard seed (Standardsaatgut) is seed of vegetables of any variety appearing in the List of Varieties or in the Catalogue of Varieties (Sortenverzeichnis) or in the EEC Common Catalogue of Vegetable Species and Varieties (Gemeinsamer Sortenkatalog für Gemüsearten) 1/, which meets the prescribed requirements 2/.

Commercial seed (Handelssaat) is the seed of determinate species which is species-true and is recognized as Commercial seed. Recognition is conditional upon the seed meeting the prescribed standards. Seeds of crops of which there are summer varieties and winter varieties must be true to type. If it is permitted to use several types within one and the same species the seed must be true to the type in question 3/.

The use of Commercial seed is permitted at the present time in the case of four grass species, seven agricultural legumes and one species (poppy) in the oil and fibre group 4/.

Auxiliary seed (Behelfssaatgut) is seed that is species-true and meets the prescribed standards 5/, this principle also applying to Auxiliary planting material 6/. The Federal Minister for Food, Agriculture and Forests may authorise, temporarily, the use of Auxiliary seed when supply difficulties warrant this expedient 7/.

In addition to the definition of the various categories of seed, the Act gives only those of marketing, import and export. By marketing is to be understood the offering for sale, holding for sale, sale, and any other commercial operation. By import and export is meant the act of bringing into or removal from the scope of the Act 8/.

## ROLE OF THE GOVERNMENT AUTHORITIES

The competent authority for seed matters is the Federal Minister for Food, Agriculture and Forests. In many cases the Act confines itself to enabling provisions whereby the Minister is empowered to regulate by Ordinance - usually subject to approval by the Federal Council (Bundesrat) - a wide range of matters. Among the latter the most important are that the Federal Minister may:

- prescribe the List of Species which come within the purview of the Act and the Regulations; enter determinate species in this List or remove them therefrom by way of implementing the relevant rules of the European Communities and modify the names of species 9/;
- prescribe, with a view to promoting quality in Basic seed and Certified seed, standards for multiplication fields, especially as regards varietal purity and the occurrence of diseases or pests; and to prescribe rules governing the quality of seed and, in the case of vine grafts, the combinations of scion and rootstock 10/. The Minister may likewise impose special requirements, in particular as regards production processes, as a condition of the grant of recognition for the seed in question 11/. The Ordinances so far issued affirm this principle;

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1/ Act, 1968/1975, arts. 70-73.

2/ Ibid., art. 18.

3/ Ibid., art. 19.1.

4/ Ordinance, Cereals, etc., of 1975, art. 2.

5/ Act, 1968/1975, art. 20.1.

6/ Ibid., art. 20.2.

7/ Ibid., art. 16.2.

8/ Ibid., art. 3.

9/ Ibid., art. 1.2.

10/ Ibid., art. 8.2.

11/ Ibid., art. 7.2.

- prescribe in the case of Standard, Commercial and Auxiliary seed, standards similar to those for Basic and Certified seed. When supplies of Certified seed are insufficient to cover needs, the Minister may authorize the use of Standard seed of certain varieties of vines and vegetables and the use of Commercial seed for certain types or varieties 1/. He may authorize the temporary use of Auxiliary seed in order to overcome supply difficulties. An ordinance for this purpose does not require approval by the Federal Council 2/;
- prohibit or restrict the importation of planting material of determinate varieties of potatoes, if advisable, in order to maintain the quality of domestic production 3/;
- prescribe, in concert with the Minister for financial affairs, special inspection and tests for imported seed 4/;
- prescribe rules governing packaging, labelling and sealing, where necessary for the protection of the purchase and in order to regulate trade in seed 5/.

## QUALITY CONTROL

In order for seed to be recognized as Basic, Certified, Standard or Commercial seed, application must be made within a specified time limit to the Recognition Office of the district where the seed is grown or warehoused 6/. Following the necessary inspections the Office grants recognition and the seed may be brought into the trade within the scope of the Act.

The work of the recognition offices is an essential element in the general system of quality control, which hinges on the publication of various lists and the activities of the Federal Office of Plant Varieties (Bundessortenamt).

In addition to the List of Species (Artenverzeichnis), in which are entered species coming within the purview of the Act, there are the following: the List of Varieties (Sorten-liste) 7/; the Register for the Protection of Varieties (Sortenschutzrolle) 8/; the List of Varieties for Standard Vegetable Seed (Sortenverzeichnis der Gemüsesorten) 9/; and the List of Varieties entered in the EEC Common Catalogue of Varieties (Gemeinsamer Sortenkatalog) 10/. There is also the Descriptive List of Varieties (Beschreibende Sortenliste) 11/.

The function of the List of Varieties which is maintained by the Federal Office of Varieties 12/, is to guarantee the quality of the varieties entered there. A variety may be entered if it is identifiable, sufficiently homogeneous, stable and of agricultural value for the country, and has a variety denomination such that it may be so entered 13/. Listings

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1/ Act, 1968/1975, art. 16.1; remarks under Basic Concepts and Terminology.

2/ Ibid., art. 8.2.3.

3/ Ibid., art. 26.

4/ Ibid., art. 28.

5/ Ibid., art. 30.

6/ Ordinance, Cereals, etc., of 1975, arts. 3 and 16; Ordinance, Vegetables, 1975, art. 3; Ordinance, Vines, 1975, art. 4.

7/ Act, 1968/1975, art. 38 and following.

8/ Ibid., art. 43.

9/ Ibid., art. 70.

10/ Ibid., art. 73.

11/ Ibid., art. 74.

12/ Ibid., art. 47 and following.

13/ Ibid., arts. 38 to 42.

are valid until the end of the tenth year following the date of entry, except for vines, where a twenty-year validity is provided for 1/. Both the Act and the Regulations go into considerable detail concerning the entering of varieties in this List, supervisory procedures and the operation of the Federal Office of Varieties 2/.

The Register for the Protection of Varieties lists varieties enjoying protection under the Plant Varieties Protection Act 3/. For varieties entered in this Register the same name must be used as that appearing in the List of Varieties 4/.

The Federal Office of Plant Varieties enters in the List of Varieties of Standard Vegetable Seed those vegetables where application is made for the marketing of Standard Seed only, and which are not entered in the List of Varieties or the EEC Common Catalogue of Varieties 5/. Varieties entered in one or other of the EEC lists, whether with restrictions as to their marketing or with territorial restrictions, are publicized by the Federal Office of Plant Varieties in such official gazettes as the Minister may determine 6/.

Lastly, there is the Descriptive List of Varieties, This is mainly of an informative nature 7/. By means of this list the Federal Office of Plant Varieties makes public those varieties entered in the List of Varieties, adding a description of their essential characteristics and qualities, together with an indication as to their suitability for a given climate and soil type or for specific purposes. Results of official tests and growing trials may be added. The list may also include varieties entered in the Lists of Varieties and European Community lists.

The juridical effect of these lists as regards the different categories of seeds and planting material may be seen in the following. In order for seed to be recognized as Basic, Certified or Standard Seed the variety in question must appear in the List of Varieties 8/ or, in the case of vegetables, in that list or in the List of Varieties of Vegetables or in the EEC Common Catalogue of Varieties 9/. Commercial and Auxiliary Seed may be used in the case of species or types that are expressly indicated for the purpose by the Minister 10/.

## PRODUCTION

The Minister is empowered to prescribe rules governing production processes and requirements in respect of processed seed 11/. Thus, the ordinances issued under the Act, affecting the seed of cereals, grasses, agricultural legumes, oil and fibre crops, roots and tubers except potatoes 12/, potato planting material 13/, vegetable seed 14/ and vine planting material 15/, specify in detail the requirements governing processes and the seed itself. The following are the main points covered:

- procedure to be followed in order to obtain recognition for Basic, Certified and Standard seeds;

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1/ Act, 1968/1975, art. 46.

2/ Ibid., Part II, arts. 38 to 73; and Ordinance, List of Varieties, 1975.

3/ Plant Varieties Protection Act (Sortenschutzgesetz). - 20 May 1968. - BGBI. I, No. 31, 25 May 1968, p. 429.

4/ Act, 1908/1975, art. 43.

5/ Ibid., art. 70.

6/ Ibid., art. 73.

7/ Ibid., art. 74.

8/ Ibid., art. 7.1.1 and art. 17.2.1.

9/ Ibid., art. 18.

10/ Ibid., art. 16.

11/ Ibid., arts. 7.2, 8 and 16.1; see also under the heading: Role of the Government Authorities.

12/ Ordinance, Cereals, etc. 1975.

13/ Ordinance, Potatoes, 1975

14/ Ordinance, Vegetables, 1975.

15/ Ordinance, Vines, 1975.

- form and content of applications; standards governing producers' establishments and areas given over to seed multiplication (e.g. dimensions of plots, prohibition on mixing species, and crop rotation);
- standards governing the presence of seed of other plants, the sanitary condition and minimum distances between plants.

Below are given examples of requirements in terms of minimum technical or mechanical purity (percentage by weight), minimum germination capacity (percentage clean seed or bulbs), maximum percentage of hard seed (percentage clean seed) and maximum moisture content (percent) in Basic or Certified seed of specified cereals 1/.

Species	Purity (minimum)	Germination capacity (minimum)		Hard seed (maximum)	Moisture content (maximum)
		PER	CENT		
Oats					
- Basic	99	85	-	-	16
- Certified	98	85	-	-	16
Barley					
- Basic	99	85	-	-	16
- Certified	98	85	-	-	16
Wheat/spelt					
- Basic	99	85	-	-	16
- Certified	98	85	-	-	16
Maize	98	85	-	-	14

## MARKETING

Seed authorised for sale. Civil liability of vendor. Basic and Certified seed may be marketed without restriction. Standard seed and planting material may be marketed in the case of certain varieties of vines and legumes as prescribed by the Minister, and Commercial seed in the case of certain species, likewise as prescribed by the Minister 2/. It is prohibited to market mixtures of seed of different species, varieties or categories unless the Minister, in the interests of users, has specifically prescribed otherwise 3/.

The vendor, from the very fact of engaging in trade in seed, is deemed to guarantee that his seed is true to species, variety and category and that it complies with the other rules governing marketing 4/. If the vendor is able to demonstrate that any shortcoming in quality is not due to him, the Court may limit his liability to pay compensation for non-performance if the payment of damages were to entail in his case, too, a grave injustice 5/.

1/ Ordinance, Cereals, etc., 1975, Annex 3.

2/ Act/1968/1975, art. 4-1; see also under the heading: Basic Concepts and Terminology above.

3/ Ibid., art. 34.

4/ Ibid., art. 33.1.

5/ Ibid., art. 33.3.

Claims for annulment of sale, reduction in the price, compensatory damages or the supply of the object of the sale free from defect are time-barred one year from the delivery of the seed or planting material in question 1/.

Packaging, sealing and labelling. The Act prescribes the following rules applicable to all seed. Seed may be imported and marketed only in packages that have been duly labelled and sealed. The closure must be such that once the package is opened it cannot be used again. The following information, also, must be supplied by attaching it to the package or in some way connecting it with the latter:

- name of species,
- name of variety except in the case of Commercial seed and Auxiliary seed,
- category of seed,
- date of grading package or container,
- in the case of Basic or Certified seed, or Standard Planting Material, the recognition number and, in the case of Commercial seed, the authorization number 2/.

Seed may not be marketed under any name, or accompanied by any information, or presented in any way, that misleads. Crops which under the Act may not be marketed as seed may not be sold under any name, etc., such that the impression is given that they may be used as seed 3/.

The Act vests powers in the Federal Minister to prescribe rules governing packaging, sealing and labelling as a means of protecting the consumer and of regulating trade in seed 4/. Making use of those powers, the Minister has included in the Ordinance he has issued so far a large number of rules governing these matters. There is an appreciable uniformity in the rules affecting the several varieties - an exception regarding vines rendered necessary by the very nature of vine scions and grafts. There follow certain points of interest in this connection.

For packages used for certain plants (roots and tubers 5/, potatoes 6/) completely new materials must be used. The packages must be accompanied by an outer label and an inner label, and must have a system of closure. Instead of the label and closure, an adhesive label may be used which also acts as the closure 7/. The label is white for Basic seed, blue for Certified seed, brown for Commercial seed and deep yellow for Standard seed 8/. It must be affixed by the person responsible for sample taking or under his supervision. The inner label bearing information similar to the external label must be placed, as its name implies, inside the container 9/. Packages must be sealed by the person taking the sample or at least under his supervision by the affixing of the seal of the respective Recognition Office. The seal must hold the label fast and be damaged beyond further use upon opening 10/.

The schedules to the various ordinances contain models of labels, inner and outer and of the adhesive type, for the respective categories of seed, as prescribed by the rules for exports to another member of the Community, or if the seed is being exported to a non-member country, according to the OECD scheme 11/.

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1/ Act, 1968/1975, art. 33.4.

2/ Ibid., art. 29.

3/ Ibid., art. 32.

4/ Ibid., art. 30.

5/ Ordinance, Cereals, etc., 1975, art. 19.

6/ Ordinance, Potatoes, 1975, art. 17.

7/ Ordinance, Cereals, etc., 1975, art. 26; Ordinance, Potatoes, 1975, art. 24; Ordinance Vegetables, 1975, art. 21.

8/ Ordinance, Cereals, etc., 1975, art. 20.1; Ordinance, Potatoes, 1975, art. 18; Ordinance, Vines, 1975, art. 15.

9/ Ordinance, Cereals, etc., 1975, art. 21; Ordinance, Potatoes, 1975, art. 19; Ordinance, Vegetables, 1975, art. 16.

10/ Ibid., art. 25; Ibid., art. 23; Ibid., art. 20, Ordinance Vines. 1975, art. 18.

11/ Ordinance, Cereals, etc., 1975, art. 34; Ordinance Vegetables, 1975, art. 34.

Packages containing small amounts are subject to different rules from the above. Thus, for example, labelling and closure do not have to be done by the sample taker or under his supervision, and no closure system is required. The expression "small quantities of seed", depending on the type of plant, may refer to packages of anything between 100 g and 30 kg 1/.

## LAW ENFORCEMENT

Inspection and control are largely a matter of rules applying to seed production processes.

The Act requires producers to keep registers which can be inspected from time to time. Producers of Basic seed or Certified seed must keep a register in which the following items are entered: origin of seed used for the production of Basic or Certified seed; amount of seed distributed and persons taking delivery of the same; amount of seed used on the producer's own farm 2/. Producers of Standard seed must keep a register of the amount and characteristics of the seed and of those purchasing such seed 3/. Producers, finally, are required to keep copies of invoices etc., for three years from the date of sale.

Field inspections are conducted by the Recognition Office, the actual number of inspections being governed by the category of the seed and the species concerned 4/. In the case of Basic and Certified seed of cereals, inspection must take place at least prior to harvesting and mandatorily more frequently with certain crops such as hybrid maize 5/.

With Basic, Certified and Standard Seed post-control is also prescribed, the purpose being to verify trueness to species and other characteristics. Powers to prescribe standards for post-control tests are vested in the Minister 6/ and have in fact been exercised by his issuing ordinances from time to time. Whereas in the case of potatoes and vines control tests have to be made only if the Recognition Office deems these to be necessary 7/, prescribed post-control testing is mandatory at certain stages in the case of cereals, grasses, agricultural legumes, oil and fibre crops and roots and tubers (except potatoes 8/) and legumes 9/, e.g. whenever recognition of the seed is applied for and when seed is packaged following sample taking. Recognition of seed may be withdrawn if the post-control tests yield negative results 10/.

There are detailed rules for the drawing of samples necessary for testing seed and for post-control purposes 11/. The actual sample taking must be done by the authority or agency appointed for this purpose under Land Law.

Those appointed by the authorities to collect information may demand access during working hours or at times when an establishment is in operation, to property and business premises, of persons who are under an obligation to provide information in order to take samples and inspect commercial papers there. The persons so required to provide information must allow these measures to be carried out. Where sample taking is concerned, the owner may demand adequate payment where the release of the sample without charge represents an excessive financial loss. Persons required to provide information as above, may refuse to answer questions, where to do so might expose them or their relatives to the risk of criminal proceedings or of proceedings under the Administrative Offences Act 12/.

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1/ Ordinance, Cereals, etc., 1975, art. 30; Ordinance, Potatoes, 1975, art. 26; Ordinance Vegetables, 1975, art. 25.

2/ Act, 1968/1975, art. 13.

3/ Ibid., art. 21.

4/ Ordinance, Cereals, etc., 1975, art. 6.2; Ordinance, Potatoes, 1975, art. 6.2; Ordinance Vegetables, 1975, art. 6; Ordinance, Vines, 1975, art. 7.

5/ Ordinance, Cereals, etc., 1975, arts. 6.3 and 6.4.

6/ Act, 1968/1975, arts. 14 and 21.

7/ Ordinance, List of Species, 1975, arts. 30 and 32; Ordinance, Vines, 1975, art. 23.

8/ Ordinance, Cereals, etc., 1975, arts. 39 and 40.

9/ Ordinance, Vegetables, 1975, arts. 39 and 41.

10/ Act, 1968/1975, art. 14.2.

11/ Ordinance, Cereals, etc., 1975, arts. 10 and 12; Ordinance, Potatoes, 1975, arts. 11 and 15; Ordinance, Vegetables, 1975, arts. 10 and 13.

12/ Act, 1968/1975, art. 75.

## IMPORTS AND EXPORTS

Exports to countries outside the European Community are not subject to the restrictions obtaining inside Germany or, under EEC legislation, within the Community 1/.

The rules governing imported seed are practically the same as those applying to nationally produced seed 2/. The provisions for packaging, labelling and sealing are identical with them 3/. The Federal Office for Food and Forests may in certain cases authorize imports of seed which do not comply with the standards prescribed by law 4/. Such cases might be where seed is imported for the production of seed that will itself be exported or for research purposes.

The Minister is empowered to prohibit or restrict imports of planting material of certain varieties of potatoes if he deems this to be advisable 5/. The Federal Minister of Financial Affairs may, by agreement with the Minister, prescribe rules governing import procedures 6/. The Minister may, by agreement with the Federal Minister for Financial Affairs require that the seed it is proposed to import be subjected to testing or to notification or that it be accompanied by an official document 7/. An Ordinance has been issued to this effect 8/.

## OFFENCES AND PENALTIES

The Act enumerates thirteen offences. A person is deemed to have committed an administrative offence if he intentionally or through culpable negligence does any of the following things, for example: markets seed that has not been recognized as Basic, Certified, Standard, Commercial or Auxiliary seed; fails to keep the prescribed registers or to collect the requisite vouchers or to keep either of these for three years; imports or markets seed in packages or containers that have not been labelled or sealed in the prescribed manner; markets seed or planting material under or accompanied by a misleading designation or information or presentation. An administrative offence is also committed in contravening any ordinance issued under the Act whenever such an ordinance refers to the current legislation governing administrative offences or imposes a penalty for a given act.

An offence may be punished with an administratively imposed fine up to a maximum of 50 000 DM, together with the seizure of the seed involved 9/.

Depending on the offence, the administrative authority having jurisdiction over the subject matter is the Federal Office for Food and Forests (offences having to do with seed imports), the Federal Office of Varieties (for offences coming within its purview) and the Principal Office of Customs for the area where the offence was committed (for offences affecting import procedures) 10/.

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1/ Act, 1968/1975, art. 4.2.4.

2/ Ibid., art. 29.1.

3/ Ibid., art. 29.1.

4/ Ibid., art. 25.

5/ Act, 1968/1975, art. 26.

6/ Ibid., art. 28.2.

7/ Ibid., art. 28.3.

8/ Ordinance, Imported Seeds, 1975.

9/ Act, 1968/1975, arts. 76.3, 76.4.

10/ Ibid., art. 76.5.

## INDIA

### CURRENT LAWS AND REGULATIONS

The Seeds Act, 1966 (No. 54 of 1966). - 29 December 1966. - The Gazette of India, Extraordinary, No. 66, Part II, section 1, 30 December 1966, p. 761.

The Seed Rules, 1968 (G.S.R. 1632). - 29 August 1968. - G.I., Extr. No. 187, Part II, section 3, 2 September 1968, p. 517.

Notification under the Seeds Act ["constitution of the Central Seed Committee], S.O, 3490. - 20 September 1968. - G.I., Extr., No. 35, Part II, section 3, 26 September 1968, p. 1075.

Notification under the Seeds Act [Seed Testing Laboratory], S.O. 4435. - 29 September 1969. -G.I., Extr., No. 371, Part II, section 3, 29 September 1969, p. 1407.

Two notifications under the Seeds Act [specification of limits of germination and purity, and declaration of varieties to be notified varieties in respect of specified areas -No. 7(15)/70]. - 20 October 1971. - Separate publication.

The Seeds (Amendment) Act, 1972 (An Act to amend the Seed Act, 1966, No. 55 of 1972). -9 September 1972. - G.I., Extr., Part II, section 1, 11 September 1972.

The Seeds (Amendment) Rules, 1973, No. 7(17)/69. - 30 June 1973. - Separate publication.

The Seeds (Amendment) Rules, 1974, No. 7-15/74-SD. - 29 April 1975. - Separate publication.

### OBJECT AND SCOPE

The long title of the Act states its express purpose, namely "to provide for regulating the quality of certain seeds for sale, and for matters connected therewith" 1/. Coming within the scope of the Act and the Rules are in principle all seeds covered by the definition of that term; however, the rules go on to make specific reference to such seeds as have been "notified", i.e. where the decision has been made to regulate their quality.

### BASIC CONCEPTS AND TERMINOLOGY

Seed means any of the following classes of seed used for sowing or planting:

- seeds of food crops including edible oil seeds and seeds of fruits and vegetables;
- cotton seeds;
- seeds of cattle fodder;
- jute seed 2/.

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1/ Preamble

2/ Act, 1966, art. 2.11, added by the 1972 Act.

The term includes seedlings, and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material, of food crops or cattle fodder 1/.

A distinction is made between "notified" and "certified" seed, thus:

Notified seed is seed of any kind or variety which the Government deems it necessary or expedient to regulate and has by notification in the Official Gazette declared the kind or variety to be a notified kind or variety 2/. The notification may refer to different kinds or varieties and to different States of the Indian Union or to different areas of these. The effect of such notification is to bring the seed in question within the purview of the Act.

Certified seed is notified seed 3/ that fulfils all the requirements for certification prescribed by the Act and the Rules and has a certification tag attached to the container 4/. There are three classes of certified seed: foundation registered and certified 5/. Foundation seed is the progeny of breeder's seed or of foundation seed and which can clearly be traced to breeder's seed. Registered seed is the progeny of foundation seed. Certified seed is the progeny of registered seed or foundation seed. When it is considered necessary to ensure adequate seed supplies, certified seed may be the progeny of certified seed provided the reproduction does not exceed three generations and that it is determined by the certification agency that the genetic purity will not be significantly altered. All three classes must meet the standards imposed by the agency for the crops in question.

Numerous other terms and expressions are defined (these total 16 in the Act and 13 in the Rules), among them "variety", as being "a subdivision of a kind identifiable by growth, yield, plant, fruit, seed, or other characteristics" 6/.

## ROLE OF THE GOVERNMENT AUTHORITIES

The Act makes a distinction between the role of the central government and that of the States. Reporting to the former direct are the Central Seed Committee 7/, the Central Seed Laboratory 8/, and the Central Seed Certification Board 9/. State Seed Laboratories 10/ and the State Certification Agencies 11/ are set up by the government of the state in question. The Act 12/ enjoins it upon the central Government to constitute a Central Seed Committee to advise it and the state Governments on matters arising out of the administration of the Act itself. The Rules prescribe the function of this Committee as being to 13/:

- (a) recommend the rate of fees to be levied for analysis of samples by the Central and State Seed Testing Laboratories and for certification by the Certification Agencies;
- (b) advise the Central or State Governments on the suitability of seed testing laboratories;

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1/ Act, 1966, sec. 2.11.

2/ Ibid., sec. 2.9 and 5.

3/ Ibid., sec. 9.1.

4/ Rules, 1968, sec. 2.e.

5/ Ibid., sec. 14.

6/ Act, 1966, sec. 2.16.

7/ Ibid., sec. 3.

8/ Ibid., sec. 4.

9/ Ibid., sec. 8A (this section was added by the 1972 Act).

10/ Ibid., secs. 2.15 and 4.2.

11/ Ibid., sec. 8.

12/ Ibid., sec. 3.1.

13/ Rules, 1968, sec.3.

- (c) send up recommendations and other concerning records to the Central Government;
- (d) recommend the procedure and standards for certification, tests and analysis of seeds; and
- (e) carry out such other functions as are supplemental, incidental or consequential to any of the functions conferred by the Act or these rules".

The membership of the Committee consists of a chairman and of eight other persons to represent such interests as the Central Government thinks fit together with one person nominated by the Governments of each of the States. The chairman and the eight other interest-group representatives are nominated by the Central Government 1/.

The Committee may appoint sub-committees consisting wholly of members of the Committee or wholly or partly of other persons.

The New Delhi Seed Testing Laboratory has been designated 2/ as the Central Seed Laboratory whose establishment was provided for under the Act 3/.

The Central Seed Certification Board was set up in 1972, i.e. subsequent to the Act, which provided only for state certification Agencies 4/, the amendment (addition of sections 8A to 8E) being introduced by the 1972 Act.

The Board consists of 20 members, plus the chairman, all of them nominated by the Central Government from among persons employed by the Agricultural Universities (three members) and by the State Governments (four), and of representatives of interest groups (thirteen). The Board's functions are, as the name implies, to advise on matters arising in connection with certification.

The Central Government is empowered to make rules to carry out the purposes of the Act 5/, and to give directions to any State Government if necessary for carrying into execution in the State of the provisions of the Act or the Rules 6/. Powers to make rules extend to the following matters, among others 7/: the functions of the Central Seed Committee, of the Central Laboratory and the certifying Agencies; the labelling of containers of notified seed; the requirements to be met by persons engaging in trade in seed; standards to be met by seeds; the qualifications and duties of Seed Analysts and Seed Inspectors; procedures for the taking of samples and analysis; and the records to be kept by those carrying on business in seed.

## QUALITY CONTROL

Two main approaches may be discerned in Indian seed legislation, namely that of guaranteeing minimum limits of germination and purity of certain seed entering into trade 8/ and requiring that such seed be appropriately labelled, and of regulating the certification programme.

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1/ Act, 1966, sec. 3(2). The Committee was constituted in 1968 with the Joint Secretary to the Government of India in the Ministry of Food, Agricultural Community Development and Cooperation (Department of Agriculture) in charge Seed Division, as chairman. The representatives of the States were originally 19 in number. A further nomination of the representative of Punjab was made in 1969. Among the other representatives of interest groups are two representing growers of seed (Notification, 1968).

2/ Act, 1966, sec. 4(1).

3/ Notification, 1969.

4/ Act 1966, sec. 8.

5/ Ibid., sec. 25.1.

6/ Ibid., sec. 23.

7/ Ibid., sec. 25.2.

8/ The Act does not apply to seed, even seed of recognized varieties, sold by the grower on his own land to persons intending to use it for sowing (Act, 1966, sec. 24).

Whenever the Central Government deems it necessary to protect the quality of a kind or variety it declares the seed in question to be notified 1/, the procedure consisting in notification in the Official Gazette. It may also determine the minimum limits of germination and purity and prescribe the relevant labelling requirements 2/, and has in fact done so, together with directions as to the areas which the notification applies for several varieties, e.g. wheat, paddy, cotton and maize 3/.

Once "notified", seed becomes subject to the provisions of the Act and the Rules. Seed of notified kinds or varieties may be sold, offered for sale or bartered only if such seed is identifiable as to its kind or variety, if it conforms to the minimum limits of germination and purity as specified, if it is packaged in a container bearing a label with the prescribed particulars, and if it meets such other requirements as may be prescribed 4/.

Seed certification is the responsibility of the seed certifying agencies of the States and of the Central Seed Certification Board, the latter coordinating the work of the former 5/. Certificates are granted, upon application being made therefor on the prescribed form 6/, to persons selling or bartering notified seed of the kind or variety in question, and upon the certifying agency being satisfied that the seed conforms to the requirements specified by that agency 7/.

There are no provisions in the Act or the Rules specifically relating to plant breeders' rights.

## PRODUCTION

No provisions are laid down in respect of seed producers beyond the requirement that the certifying agencies are to keep lists of growers of notified seed 8/.

Rules are given for processed seed of notified kinds or varieties and, as a general principle, rules are also prescribed governing the production of certified seed.

Below are given the percent requirements for seed of four notified varieties 9/:

Variety	Minimum Germination	Minimum Purity
Wheat	80	97
Paddy	70	97
Maize	80	97
Cotton	65	95

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1/ Act, 1966, sec. 5.

2/ Ibid., sec. 6.

3/ Notifications, 1971.

4/ Act, 1966, sec. 7.

5/ Ibid., sec. 8A (inserted by the 1972 Act).

6/ Rules, 1968, 15.

7/ Act, 1966, secs. 9 and 10; 1968 Rules, sec. 8.

8/ Rules, 1968, sec. 60.

9/ Notification, 1971.

Where the production processes of certified seed are concerned, the Rules assign to the certification agencies the following functions 1/: to outline the procedure for growing, harvesting and processing of seed intended for certification with a view to ensuring that seed lots finally approved for certification meet the prescribed standards; to inspect seed processing plants; to inspect, to take samples and conduct analysis of seed; to inspect fields in order to ensure that the minimum standards for isolation, roguing (where applicable), use of male sterility (where applicable) and similar factors and to ensure that seedborne diseases are not present to a greater extent than that contemplated in the conditions for certification.

## MARKETING

### General rules

Seed of notified kinds or varieties may be sold, held for sale, offered for sale or bartered or otherwise supplied only if it meets the statutory requirements in its regard 2/ and, even then, not after the date, recorded on the container, up to which the seed may be expected to retain germination 3/.

Certified seed must conform to the requirements laid down in its regard. In particular, it may not be sold if the seal or label has been broken or tampered with 4/.

There are no restrictions on the offer for sale of any other seed.

### Packaging; sealing; labelling

Notified seed must be accompanied by a label or indelible mark on the container 5/, which, moreover, must not contain any false or misleading statement 6/. The mark or label must contain the following information 7/:

- particulars, as specified by the Central Government under clause (b) or section 6 of the Act;
- a correct statement of the net content in terms of weight and expressed in the metric system;
- date of testing;
- if the seed has been treated: a statement indicating that the seed has been treated; the name of the applied substance; and, if the substance is harmful to human beings or other vertebrate animals, a caution statement such as "Do not use for food, feed or oil purposes". The caution for mercurials and similarly toxic substances is the word "Poison", which is to be prominently displayed on the label in red;
- the name and address of the person who offers for sale, sells or otherwise supplies the seed and who is responsible for the quality;
- the name used for official recognition purposes when the seed has been notified.

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1/ Rules, 1968, sec 6.

2/ Act, 1966, sec 7.

3/ Rules, 1968, sec 13.

4/ Ibid., sec. 17.IV.

5/ Ibid., sec 9.3.

6/ Ibid., sec 10.

7/ Ibid., sec 8.

Certified seed must conform to all requirements in the matter of labelling prescribed in the Act or the Rules and, in addition, must be accompanied by a certification tag 1/ constituting the certificate granted by the certification agency 2/. The tag must be of such material and in such form as the agency 3/ may determine and contain the following information 4/:

- name and address of the certification agency;
- kind and variety of the seed;
- lot number or other mark of the seed;
- name and address of the certified seed producer;
- date of issue of the certificate and of its validity;
- an appropriate sign to designate certified seed;
- an appropriate word denoting the class designation of the seed;
- the period during which the seed may be used for sowing or planting;
- the specification that the use of the seed after the expiry of the validity period by any person is entirely at his risk and that the holder of the certificate shall not be responsible for any damage to the buyer of the seed.

The colour of the certification tag is white for foundation seed, purple for registered seed and blue for certified seed 5/.

#### Extension and publicity

One of the functions of the certifying agency is to carry out educational programmes designed to promote the use of certified seed, including a publication listing certified seed growers and sources of certified seed 6/.

### LAW ENFORCEMENT

The Governments of the States appoint their seed analysts and inspectors and define the areas within which they are to exercise jurisdiction 7/. The Rules lay down the qualification (university degree) required of the persons so appointed 8/. Seed inspectors are deemed to be public servants 9/ and are empowered to take samples of notified seed, to forward such samples to the Seed Analyst to enter and search at all reasonable times any place where they have reason to believe that an offence has been committed examine/ documents there, and may for this purpose break open any container. They may break open the door of the premises if the owner or other person in occupation refuses to admit them. Action of this kind by inspectors must be taken in the presence of at least two witnesses, whose signatures also are required 10/.

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1/ 1968 Rules, sec. 17.i.

2/ Ibid., sec. 2.d.

3/ Ibid., sec. 17.IV.

4/ Ibid., sec. 17.ii and V.

5/ Ibid., sec. 17.iii.

6/ Ibid., sec. 6.h.

7/ Act, 1966, secs. 12 and 13.

8/ Rules, 1968, secs. 20 to 22.

9/ Act, 1966, sec. 13.2.

10/ Ibid., sec. 14.

Detailed rules govern the manner of taking samples 1/, and administrative directions are laid down in connection with the analysis of seed 2/. The Central Seed Laboratory has among its functions that of promoting uniformity in analysis procedures and of collecting data on the quality of seed found on the market 3/.

## IMPORTS AND EXPORTS

Restrictions are placed on imports and exports of seed of notified kinds or varieties, in the sense that such seed must conform to the minimum limits of germination and purity, while the container must bear the correct labelling 5/.

The Central Government may recognize a seed certification agency established in a foreign country for the purposes of seed certification 6/.

## OFFENCES AND PENALTIES

Any person who contravenes the Act or any rules made under it or prevents a seed inspector from taking samples or exercising any other power conferred on him by the Act is punishable with a fine of up to 500 rupees for the first offence and, for an offence of which the person concerned has already been convicted, with up to double that amount or with imprisonment for a term of up to six months, or with both such imprisonment and fine 7/.

In addition to the penalties described, any seed involved in the offence may be forfeited to the Government 8/.

When the offence has been committed by a company, both the latter and every person who was responsible for or to the company, e.g. a director or other officer of the company, with whose consent or connivance or through whose negligence the offence was committed, are deemed guilty. However, nobody is punishable if he proves that the offence was committed without his knowledge and that he acted with due diligence. Likewise, no Government or Government officer may be proceeded against for anything done in good faith under the Act 9/

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1/ Rules, 1968, secs. 24 to 37.

2/ Act, 1966, sec. 16; Rules 1968, sec. 21.

3/ Rules, 1968, sec. 5.

4/ Ibid., sec. 38.

5/ Act, 1966, sec. 17.

6/ Ibid., sec. 18.

7/ Ibid., sec. 19.

8 Ibid., sec. 20.

9/ Ibid., secs. 21 and 22.

## KENYA

### CURRENT LAWS AND REGULATIONS

Act No. 1 of 1972. The Seed and Plant Varieties Act, 1972. - Kenya Gazette Supplement No. 32 (Acts No. 1), 16 May 1972.

This Act repeals the Seeds Act (cap. 326 of the Laws of Kenya 1957-1967). It devotes particular attention to the question of plant breeders' rights. In many of the matters discussed below the Act merely states the basic principle and vests in the Minister powers to make regulations.

### OBJECT AND SCOPE

The Act does not expressly indicate any policy object, the long title simply listing the principal matters dealt with.

The scope of the Act is limited only by the - very broad - definition of seed.

### BASIC CONCEPTS AND TERMINOLOGY

The section on interpretation gives the meaning of fifteen terms, among them "seed". This is defined as that "part of a plant which is intended to be used for propagation and includes any seed, seedling, corn, cutting, bulb, bulbil, layer, marcot, root, runner, scion, set, split, stem, stock, stump, sucker or tuber so used or intended to be so used" 1/.

### ROLE OF THE GOVERNMENT AUTHORITIES

The Government authority responsible for seed matters is the Minister of Agriculture 2/. Before making regulations, however, the Minister is required to consult with representatives of such organizations as he deems to have a substantial interest in the matter 3/.

Regulations may be made 4/ for any of the following purposes:

- (a) for ensuring that reliable and adequate information is afforded as to the nature, condition and quality of seeds intended for sale;
- (b) for preventing the sale of seeds which are deleterious or which have not been produced in specified conditions, or which have not been tested for purity or germination, or which are of a plant variety of which the performance has not been subjected to trials;
- (c) for requiring the registration of persons growing any specified crop for the main purpose of seed production, or of persons selling any seed;
- (d) for preventing the spread of plant disease by the sale of seeds;
- (e) for requiring the treatment of seed, by any specified means, for the control of plant disease and regulating the importation, quality, test and sale of any material used in such treatment;

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1/ Act, 1972, sec. 2.

2/ Ibid.

3/ Ibid., sec. 3.

4/ Ibid.

- (f) for regulating the descriptions under which seed is sold;
- (g) for regulating, controlling or prohibiting the export of seeds;
- (h) for prescribing anything which is to be prescribed, under the Act, or by seed regulations.

## QUALITY CONTROL

The Act empowers the Minister to make regulations for "the regulation and control of production, processing, testing, certification and marketing of seeds" 1/.

Two kinds of register are contemplated as part of the design to promote seed quality, viz., the index (of names of plant varieties) and the register of plant breeders' rights. The Minister may prepare the former for use in connection with the sale of seed of the varieties concerned 2/. This index of names has several sections each defining the respective classes of varieties of plants referred to in such terms as to make it possible to determine whether a variety is included, or not included, in the index at a given time 3/. Accordingly, if a variety has a name given to it in the appropriate section of the index it is prohibited to sell the seed of it under a name not so given 4/. Similarly, if a variety is included in the class definition to which the section in question relates but is not listed there by name, it is prohibited to sell the seed of it under a name other than one of those so given 5/. In other words, whereas varieties not included in the definition of the respective classes may be sold without restriction, only those varieties may be sold if they belong to a group included under the respective class definitions, which are expressly named. In the case of varieties included under the definition given by the section but whose names are not expressly named there, it will be necessary, for their sale to be lawful, to apply to the government for their inclusion in the appropriate section of the index and under a suitable name. Applications are granted only if the results of official testing demonstrate that the variety in question has an agro-ecological value surpassing income aspect that of existing varieties, is sufficiently distinguishable from any other variety whose existence is a matter of common knowledge at the time of the application, and exhibits sufficient varietal purity and stability in its essential characteristics 6/.

In the matter of the breeders' rights, provision is made for the making of regulations to prescribe the keeping of registers and records 7/. The Minister may provide for the selection of names for varieties to be covered by plant breeders' rights and prescribe the keeping of registers of these names. So far as practicable, such a register is to be published and combined with the abovementioned index of names of plant varieties so that it will be possible to determine which varieties may be sold under a grant of plant breeders' rights 8/. Such grants are made in respect of varieties of species or groups specified by the Minister 9/. Plant breeders' rights are exercisable for a period not exceeding 25 years. The minimum period is 18 years for fruit trees and forest and ornamental trees and grape vines and 15 years in the case of other kinds 10/. The holder of a plant breeder's right is required to ensure the supply of the market with propagating material of the variety so protected on reasonable terms and conditions 11/.

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1/ Act, 1972, sec 3.1.

2/ Ibid., sec. 7.1.

3/ Ibid., sec. 7.2.

4/ Ibid., sec. 7.5.

5/ Ibid., sec. 8.1.

6/ Ibid., sec. 8.4.

7/ Ibid., sec. 24.3.e.

8/ Ibid., sec. 21.

9/ Ibid., sec. 17.1.

10/ Ibid., sec. 19.

11/ Ibid., sec. 23.

## PRODUCTION

The Minister is empowered to make regulations governing production 1/.

## MARKETING

### General

The Minister may make regulations governing the marketing of seed 2/.

The principle underlying the prescribing of future rules has been mentioned in the section on Quality Control, namely, that only those varieties may be sold that are expressly named in the index of names of plant varieties. The purchaser may demand that seed be tested, under procedures prescribed by the regulations 3/.

Offences under the seed regulations do not affect the validity of a contract for the sale of seed or the right to enforce that contract 4/.

### Packaging; sealing; labelling

The regulations may include provisions governing containers and requirements as to the marking of seed 5/.

### Extension and publicity

The Minister may make regulations, inter alia, for ensuring that reliable and adequate information is afforded as to the nature, condition and quality of seed intended for sale 6/.

## LAW ENFORCEMENT

The Minister's powers to enforce the Act are affirmed as a general principle 7/. Specifically, any person authorized in writing by the Minister may, on production, if so required, of his authority, at all reasonable times enter on any land on which are grown varieties exposed to the risk of cross-pollination 8/.

The powers of entry, conferred on authorized officers to inspect fields and premises where seed is sold or stored with a view to securing compliance with the provisions of the Act, imply a corresponding obligation on the part of owners and vendors not to obstruct such officers when carrying out an official inspection 9/.

The Minister is required, either alone or in conjunction with any other body, to establish one or more official seed testing stations 10/, and may regulate the procedure to be observed in sample taking and in testing seed 11/.

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1/ Act, 1972, sec. 3-1.

2/ Ibid.

3/ Ibid., secs 4.3. and 4.4.

4/ Ibid., sec. 4.5.

5/ Ibid., sec. 3.2.

6/ Ibid., sec. 3.

7/ Ibid.

8/ Ibid., sec. 16.7.

9/ Ibid., sec. 30.

10/ Ibid., sec. 11.

11/ Ibid., secs. 3.3.g and 3.4.

## IMPORTS AND EXPORTS

The Minister is empowered to regulate, control or prohibit the export of seed 1/. It is expressly laid down that the sale of varieties covered by a definition in the section of the index of names of plant varieties, though not indicated by name in that section, is not an offence where the vendor reasonably believes that the seed in question will be used outside Kenya 2/.

The Minister may likewise prohibit imports of seed which may prove harmful to domestic varieties by cross-pollination or other means or which are unsuitable for the climate of Kenya 3/. Part IV of the Act empowers the Minister to make orders with a view to preventing injurious cross-pollination and to controlling imports into the country of potentially deleterious seed 4/.

## OFFENCES AND PENALTIES

A number of offences are defined, e.g., making false representations in connection with the index of names of plant varieties 5/, selling a seed of a plant variety under a name other than the name given in the index 6/, and obstructing an authorized officer in the exercise of his duties when inspecting land or premises 7/.

Where no specific penalty is prescribed for a given offence, the Act contemplates that of a fine not exceeding 3 000 shillings or a term of imprisonment not exceeding three months or both such penalties 8/.

A Seeds and Plants Tribunal 9/ is established to receive appeals against decisions having to do with inclusion in the index of names of plant varieties, all matters relating to the protection of plant breeders' rights and other matters determined by the regulations. A final appeal from a decision of the tribunal may be made to the High Court.

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1/ Act, 1972, sec. 3.1.g.

2/ Ibid., sec. 8.2.b.

3/ Ibid., sec. 15.1.

4/ Ibid., secs. 15 and 16.

5/ Ibid., sec. 10.

6/ Ibid., sec. 7.5.

7/ Ibid., sec. 30.7.

8/ Ibid., sec. 33.

9/ Ibid., secs. 28 and 29. The Seeds and Plants Tribunal.

## MOROCCO

### CURRENT LAWS AND REGULATIONS

Dahir No. 1-69-169 prescribing rules governing the production and marketing of seed and planting material. - Bulletin Officiel du Royaume du Maroc No. 2960 bis, 29 July 1969, p. 801 - as amended by Dahir with force of Law No. 1-76-472, 19 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1081.

Interministerial Order No. 762-77 amending Interministerial Order No. 347-69 of 25 July 1969 prescribing fees and procedures for the collection of fees payable for seed production control. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1081 (supersedes Order No. 347-69).

Seven Orders of the Minister of Agriculture and Land Reform approving, respectively, seven technical regulations governing the production, testing, packaging and certification of seed, as follows:

- Order No. 431-77: industrial and fodder beet;
- Order No. 857-75: fodder legumes (lucerne, berseem, clover, fodder peas, vetch and lupin);
- Order No. 858-75: sunflower, cardamon, rape, flax, soy and groundnut;
- Order No. 859-75: maize;
- Order No. 860-752 wheat, barley, rice;
- Order No. 861-75: cotton;
- Order No. 862-75: food legumes (beans, field beans, haricot beans, peas, lentils, and chickpeas)

. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, pp. 1082-1083.

Order of the Minister of Agriculture and Land Reform No. 863-75 prescribing rules for keeping the Official Catalogue of Species and Varieties of Cultivated Plants in Morocco, together with conditions applicable to testing prior to listing new plant varieties therein. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1084.

Order of the Minister of Agriculture and Land Reform No. 864-75 concerning the composition and terms of reference of the National Seed and Planting Material Selection Committee. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1084.

Joint Order of the Ministers of Agriculture and Land Reform and of the Treasury No. 865-75 prescribing fees and collection procedures in respect of entries in the Official Catalogue of Species and Varieties of Cultivated Plants in Morocco. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1085.

Order of the Minister of Agriculture and Land Reform No. 971-75 approving the technical regulations concerning the testing of standard vegetable seed. - 22 September 1977. - B.O.R.M. No. 3388, 5 October 1977, p. 1085.

### OBJECT AND SCOPE

The enactments cited apply to seed and planting material of those species and varieties which are, or are to be, the subject of a Technical Regulation approved by Order 1/.

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1/ Dahir 1969/1977, art. 1.

## BASIC CONCEPTS AND TERMINOLOGY

The term seed refers to all parts of plants obtained by sexual reproduction; planting material refers only to those parts of plants permitting reproduction by vegetative means 1/.

The Order concerning the Official Catalogue of Species and Varieties of Cultivated Plants adds the following two definitions: Varieties means any cultivar, clone, line, strain or hybrid and any breed obtained by natural means or by selection. By cultivated plants are to be understood all plants including woody plants 2/.

## ROLE OF THE GOVERNMENT AUTHORITIES

The Minister of Agriculture and Land Reform has powers to:

- issue Orders approving technical regulations concerning the production, inspection, packaging and certification of seed 3/;
- determine, jointly with the Minister of the Treasury, fees and procedures for collecting fees payable for seed production inspection 4/;
- prescribe conditions governing entry in the Official Catalogue of Species and Varieties of Cultivated Plants, as well as test procedures prior to such entering 5/;
- determine fees and procedures for collecting fees for entry in the above Catalogue 6/;
- determine the composition and terms of reference of the National Seed and Planting Material Selection Committee 7/;
- approve bodies engaging in the marketing of seed and planting material and to prescribe conditions governing such marketing 8/;
- grant, jointly with the Minister of the Treasury, production and marketing subsidies and, as appropriate, compensation for losses sustained in connection therewith 9/;
- authorize imports and exports of seed 10/.

Crops grown for the purpose of producing certified seed and planting material of species and varieties covered by approved Technical Regulations are subject to inspection by the Agricultural Research Services 11/.

There is a National Seed and Planting Material Selection Committee 12/, with the following terms of reference 13/:

- to propose to the Minister the entering of new varieties in the Official Catalogue and the deletion therefrom of varieties that have ceased to be of interest;

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1/ Dahir 1969/1977, art. 1.

2/ Order, Official Catalogue, 1977, art. 1.

3/ Dahir 1969/1977, art. 1; and the seven Orders issued in 1977.

4/ Ibid., art. 3, Interministerial Order, 1977.

5/ Dahir 1969/1977, art. 4; Order, Official Catalogue, 1977.

6/ Dahir 1969/1977, art. 4; Joint Order, 1977.

7/ Dahir 1969/1977, art. 4; Order, National Committee, 1977.

8/ Dahir 1969/1977, art. 5.

9/ Ibid., art. 7.

10/ Ibid., art. 6.

11/ Dahir 1969/1977, art. 1.

12/ Ibid., art. 4.

13/ Order, National Committee, 1977, art. 3.

- to prescribe for each species the conditions and procedures governing tests which the varieties submitted for registration must undergo 1/;
- to appoint, as necessary, sections within the Rational Committee dealing with the respective crops affected by any approved technical regulations, and to determine the terms of reference of these sections.

The Committee has the following composition:

- The Director of Agricultural Research (Chairman);
- the Director of Agricultural Development (Vice-Chairman);
- the Chief, Division of Research and Testing;
- the Chief, Division of Economic Affairs, Ministry of Agriculture;
- the Chief, Division of Technical and Plant Health Control;
- the Chief, Agricultural Production Division;
- the Chief, Phytotechnical Services;
- the Chief, Seed and Planting Material Control and Multiplication Service (Rapporteur);
- the Director, National Seed Marketing Company;
- the President of the Federation of Chambers of Agriculture, or his representative;
- the Director, National Grains and Pulses Board;
- a representative of seed producers, nominated by the Federated Chambers of Agriculture.

The Chairman may invite other persons to attend meetings of the Committee in an advisory capacity. At least seven members must be present for decisions to be valid. These are taken on a majority of votes, the Chairman having a casting vote in the event of a tie.

## QUALITY CONTROL

The Ministry of Agriculture keeps the Official Catalogue of Species and Varieties of Cultivated Plants in Morocco (i.e. those seed and material, etc., covered by an approved technical regulation), where it is allowed to market the seed or planting material in question 2/. Moroccan species and varieties are listed, together with species and varieties of foreign origin where the seed and planting material have been multiplied outside Morocco but are intended for use in the country 3/.

Only species and varieties listed in this Official Catalogue may be submitted for testing for certification purposes 4/. Moreover, the terms "seed" or "planting material" may be used to refer to only those products that have been certified following such testing 5/.

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1/ This provision was implemented by the Order concerning the Official Catalogue, 1977.

2/ Order, Official Catalogue, 1977, art. 3.

3/ Ibid., art. 2.

4/ Ibid., art. 3.

5/ Dahir 1969/1977, art. 1.

The listing of a novel variety in the Catalogue follows established rules and procedures 1/. A variety is deemed to be novel if it differs from varieties already listed in the Catalogue in at least one character significant morphologically or physiologically or from the cultivation standpoint 2/. Applications for listing are addressed to the National Seed and Planting Material Selection Committee 3/. The latter, once the requisite tests have been carried out, forwards the application to the Minister of Agriculture, who then grants the authorization 4/. The fact that a new variety is thus listed in no way implies the loss or restriction of the breeder's rights 5/.

## PRODUCTION

The Technical Regulations referred to earlier lay down conditions governing the production of seed and planting material 6/. The seven such regulations approved to date 7/ have not in fact been published in the Official Gazette; while, in the approving Orders, it is stated that these texts may be consulted at the Ministry (Department of Agricultural Research, Seed Control and Multiplication Service).

The Minister of the Treasury and the Minister of Agriculture may by joint Order grant production subsidies 8/.

## MARKETING

Only those products may be sold under the description "seed" or "planting material" which have been entered in the Official Catalogue of Species and Varieties of Cultivated Plants and are covered by the respective technical regulations themselves approved by Ministerial Order, have been subjected to testing by the Agricultural Research Services and have "been duly certified 9/.

Only those bodies that are authorized to do so by Order of the Minister of Agriculture may market seed or planting material 10/.

Prices paid to producers and prices paid by farmers purchasing seed and planting material are determined as prescribed under the general price control laws. Marketing subsidies may be granted by joint Order of the Minister of the Treasury and the Minister of Agriculture 11/.

Packing, sealing and labelling matters are covered by the respective technical regulations 12/.

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1/ Order, Official Catalogue, 1977.

2/ Ibid., art. 7.

3/ Ibid., art. 5.

4/ Order, Official Catalogue, art. 8.

5/ Ibid., art. 10.

6/ Dahir 1969/1977, art. 2.

7/ See the list of current Laws and Regulations above.

8/ Dahir, 1969/1977, art. 7.

9/ Ibid., art. 1; Order, Official Catalogue, 1977, art. 1.

10/ Dahir 1969/1977, art. 5; cf. also art. 2 in each of the seven 1977 Orders; and Order (Vegetables), 1977.

11/ Dahir 1969/1977, art. 7.

12/ Ibid., art. 2.

## LAW ENFORCEMENT

The Technical Regulations prescribe conditions governing admission to testing and the testing procedures themselves. They also lay down conditions to be observed in the matter of production and packaging and the certification of seed and planting material 1/. Crops grown for seed production purposes in the case of certified seed and planting material covered by approved Technical Regulations are inspected by the Agricultural Research Service 2/.

Inspection of the marketing stage is governed by the requirement that the agencies authorized to sell seed of species and varieties covered by approved Technical Regulations are to forward each month to the Ministry of Agriculture returns of their purchases and sales 3/.

## IMPORTS AND EXPORTS

Imports and exports of seed and planting material are subject to prior authorization by the Minister of Agriculture and Land Reform 4/.

Species and varieties of foreign origin which are multiplied abroad or in Morocco and are intended for use in the country must bear the same description as in the country of origin and are subject to the same rules governing listing in the Official Catalogue as are species and varieties originating in Morocco 5/.

The Official Catalogue may include varieties or varietal types the seed or planting material of which may be multiplied in Morocco provided they are intended for export only 6/.

## OFFENCES AND PENALTIES

Fraud committed in marketing seed and planting material is punished as provided for in the 1914 Act on the prevention of fraudulent practices in the sale of goods and adulteration of foodstuffs and agricultural produce, as amended. Offences not deemed to be fraudulent practices or adulteration are punished as provided for in the 1930 rules governing these matters 7/.

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1/ Dahir 1969/1977, art. 2.

2/ Ibid., art. 1.

3/ Cf. art. 2 in each of the seven 1977 Orders; and Order, Vegetables, 1977.

4/ Dahir 1969/1977, art. 6.

5/ Order, Official Catalogue, 1977, art. 2.

6/ Ibid., art. 9.

7/ Dahir 1969/1977, art. 8.

## ROMANIA

### CURRENT LAWS AND REGULATIONS

Law on seed and planting material production, use and quality control 1974. Separate publication.

### OBJECT AND SCOPE

The preamble to the Law 1/ states that the use of seed and planting material of high biological and cropping value, and of high yielding varieties and hybrids adapted to the local soil and climatic conditions, is an important factor in increasing farm production. The supply of the required quantities of seed and planting material and the continuous improvement of their quality are thus essential in making the best use of specific conditions of the country's agricultural areas and of investment made in land reclamation, irrigation, fertilizers and mechanization.

The Law applies to all seed and planting material 2/.

### BASIC CONCEPTS AND TERMINOLOGY

The Law considers the following to be seeds and planting material:

- (a) seeds or any other materials for the multiplication of crop plants, belonging to varieties or hybrids with biological or technological properties well suited to local conditions and obtained according to processes specific to each variety and hybrid, and ensuring both the maintenance of their initial characteristics and properties and a suitable cropping value;
- (b) planting material produced by grafting or other methods of vegetative reproduction, belonging to varieties and species with suitable biological, productive, technological and commercial properties 3/.

The following terms and expressions are also used, though without being defined:

- parental forms;
- super-elite;
- elite;
- certified;
- homologated 4/.

### ROLE OF THE GOVERNMENT AUTHORITIES

The Ministry of Agriculture, Food Industry and Water Management is responsible for the production of seed and planting material required for the accomplishment of the annual agricultural production plan. This Ministry organizes jointly with the Academy of Agriculture and Forestry Sciences and the specialist staff of the Faculties of Agriculture, Horticulture and Biology, production and quality control and the use of seed etc., under a "unitary system" 5/.

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1/ Preamble to the 1974 Law, as published in English translation by ROMAGRIMEX, Foreign Trade Company, Bucharest.

2/ 1974 Law, arts. 2, 4 and 6.

3/ Ibid., art. 4.

4/ Ibid., arts. 5 and 6.

5/ Ibid., art. 1.

The Ministry is responsible:

- (a) for the certification of seeds and planting material by establishing biological purity and phytosanitary conditions therefor in the field and by determining their cultural value by means of laboratory tests 1/;
- (b) for the production of certified and homologated seed 2/;
- (c) jointly with the Academy of Agricultural and Forestry Sciences, for the production of seed potatoes of super-elite, elite, certified and homologated classes, and for the production of fodder crop seed necessary for the improvement of natural grasslands and pastures 3/;
- (d) acting through the State Committee, for the testing and homologation of varieties, for the bringing into production of newly created or imported varieties and the elimination of the less valuable ones 4/;
- (e) acting through the State Committee for the testing and homologation of varieties, for keeping up to date a State Register listing varieties and hybrids, and for publishing annually an official list of the latter 5/.

The Academy of Agricultural and Forestry Sciences is responsible, acting through the agency of the Agricultural Research and Experimental Stations for:

- (a) the development of varieties and hybrids of crop plants with outstanding features. The Law specifies a number of activities having to do with cereals, pulse crops, industrial crops, medicinal and aromatic plants, fodder crops, disease and pest-resistant hybrids, varieties of flowers and ornamental plants, fruit trees and vines 6/;
- (b) maintaining and improving the production potential and high qualities of both homologated native and imported varieties and hybrids;
- (c) determining the time for the periodical replacement of seed and planting material;
- (d) determining the technological procedures to be followed for the production and multiplication of seed and plant material 7/;
- (e) the production of seed and planting material of the higher biological categories, parental forms, super-elite and elite 8/, and, jointly with the Ministry, for the production of seed potatoes of all categories and for the production of fodder crop seed 9/.

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1/ 1974 Law, art. 4.

2/ Ibid., art. 6.

3/ Ibid.

4/ Ibid., art. 3.

5/ Ibid., arts. 3 and 11.

6/ Ibid., art. 2.

7/ Ibid., art. 2.

8/ Ibid., art. 5.

9/ Ibid., art. 6.

## QUALITY CONTROL

The State Register lists varieties and hybrids, while the Official List published each year by the Ministry also contains entries of these same varieties and hybrids 1/. Socialist agricultural units, members of cooperatives and individual farmers may use only seeds or planting material entered in the above Register and List and meeting official standards. It is prohibited to use for production any seed or planting material which do not meet these standards. However, seed, etc., undergoing testing and authorized for this purpose are exempt from this prohibition 2/.

The certification of seed and planting material is the responsibility of the Ministry. The latter establishes biological purity and phytosanitary conditions in the field and determine the cultural value of seed, etc., by means of laboratory tests 3/.

Acting through the Institute of Agricultural Research, the Academy of Agricultural and Forestry Sciences is responsible for developing new varieties 4/.

## PRODUCTION

### Producers

The production of seed and planting material is the responsibility of the Ministry or the Academy of Agricultural and Forestry Sciences, as the case may be 5/, and is carried out on state farms and by agricultural production cooperatives 6/. Their specialized units are to produce seed and plant material under licence issued by the Ministry 7/, while the latter acting through its own specialized units will issue contracts for this purpose 8/.

The production of certain types of plants is reserved to these specialized units. Thus, hybrid seed and seed of industrial crop plants, vegetables, fodder crops, flowers and medicinal plants may be produced only by experiment stations and specialised farms when isolation or special technology is required for the purpose 9/.

The Ministry is required to create a Seed Stock for production purposes and a Reserve Seed Stock. These two stocks are to be constituted - and independently - from seed intended for use 10/. Each year a determination is to be made for each crop of the amount of seed required for these stocks 11/. The Ministry may draw on the reserve stock for planting and production purposes in the event of natural calamities or other emergencies 12/.

Incentives are offered to growers. Production receives Government aid through the provision of the necessary basic material and of technical assistance and by the coverage of part of production costs for some of the seeds delivered to cooperative farms - this within the limits laid down in the State budget 13/. The Ministry organizes each year competitions with prizes by way of providing a tangible incentive for the workers of the units where seed and planting material are produced 14/.

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1/ 1974 Law, arts. 3 and 11.

2/ Ibid., art. 11.

3/ Ibid., art. 4.

4/ Ibid., art. 2.

5/ Ibid., arts. 5 and 6; cf. the last paragraph under "Role of the Government Authorities".

6/ Ibid., arts. 6 and 7.

7/ Ibid., art. 9.

8/ Ibid., art. 17.

9/ Ibid., art. 6; cf. art. 7, with reference to fruit tree grafts and strawberry stolons.

10/ Ibid., art. 13.

11/ Ibid., art. 14.

12/ Ibid., art. 15.

13/ Ibid., art. 24.

14/ Ibid., art. 27.

### Requirements governing production processes and processed seed

Responsibility for determining the technology to be applied in seed production and multiplication lies with the Academy of Agricultural and Forestry Sciences 1/.

The specialists of the State and cooperative farms and units with seed production fields are responsible for the application of the technologies specific to each crop, variety or hybrid, and for carrying out all operations required for the production process up to the moment the products are marketed 2/.

The Country Directorates of the Ministry are responsible for the periodical change-over of seed 3/. Socialist farms, cooperative members and individual farmers are required to change the seeds for each crop at intervals (listed in Appendix 1) 4/. In the case of cereals, for example, the seeding material must be replaced every two or three years.

## MARKETING

### General rules

Only seed or planting material varieties and hybrids recorded in the State Register or the Official List published each year by the Ministry may be used 5/.

The Ministry, acting through its specialized units, enters into contracts for the conditioning, marketing and delivery to users of seed and planting material 6/.

With a view to ensuring that the socialist agricultural units producing high quality seed and planting material shall have adequate returns, the price policy adopted consists in the establishing 7/, by the Council of Ministers, of maximum wholesale purchase and selling prices for the principal crops 8/.

The prices of other seed are established by the Ministry by agreement with the National Union of Agricultural Production Cooperatives, and in the case of flax and hemp seed, with the Ministry of Light Industry 9/.

Units producing or otherwise supplying seed and planting material are answerable for genuineness and quality, and must bear costs arising out of loss or damage caused to users as a result of defective material 10/.

### Packaging, sealing and labelling

Seed and planting material must be transported in such a way as to ensure that quality and genuineness are not impaired. They must also be accompanied by documents issued by the special agencies of the Ministry certifying variety and quality. 11/.

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1/ 1974 Law, art. 2(d).

2/ Ibid., art. 9.

3/ Ibid., art. 12.

4/ Ibid., art. 10.

5/ Ibid., art. 11.

6/ Ibid., art. 17.

7/ Ibid., art. 25.

8/ Ibid., cf. appendix 2, listing thirteen crops affected by this rule; among them, common and hard wheat, rye, barley, maize, sugarbeet and potatoes.

9/ Ibid., art. 25.

10/ Ibid., art. 22.

11/ Ibid., art. 18.

Producer units and officials responsible for collecting seed and for marketing, as well as users themselves, are required to store and maintain seed in good condition and prevent its deterioration 1/.

## LAW ENFORCEMENT

Where seed and planting material are concerned, quality control at all stages - production, condition, storage, conservation, marketing and transport - control over their use in the production process and the issuance of quality analysis, certificates and related documents are the responsibility of the Ministry acting through the State Inspectorate for Seed and Planting Material Quality 2/.

The Minister is required to follow up the enforcement of the seed law, and for the purpose is to organize systems of control and to prohibit the use of seed failing to meet statutory requirements 3/.

## IMPORTS AND EXPORTS

The Ministry and the Academy of Agricultural and Forestry Sciences are responsible for promoting cooperation with other countries, whether socialist or otherwise, with a view to evolving new varieties and improving production through the exchange of biological material, documentation and specialist services, as well as through the import and export of seed and planting material of valuable varieties and hybrids under bilateral and multilateral agreements 4/.

Importing and exporting are to be done only by the Ministry or, with the latter's permission, by other agencies pursuant to the laws and regulations governing foreign trade 5/.

Imported seed and planting material must be transported to the destination indicated by the local user, and must be accompanied by documents of origin and quality issued by the competent authority in the exporting country 6/.

## OFFENCES AND PENALTIES

"Infringement of the provisions of the Law entail disciplinary, contraventional, material, civil or penal responsibility" 7/.

To supply deliberately or negligently seed or planting material not meeting national standards or internal norms, or to supply seed without a licence, to foreign citizens or enterprises, seed or planting material of valuable varieties or hybrids, are deemed to be offences under the Law and are punished as provided in the Penal Code.

Infringements of specified provisions constitute "contraventions". These offences in question are listed as producing seed and planting material without a licence issued by the Ministry; failure to apply the prescribed technology; failure to change the seed for each crop at the prescribed intervals; the use of seed and planting material other than

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1/ 1974 Law, art. 19.

2/ Ibid., art. 20.

3/ Ibid., art. 21.

4/ Ibid., art. 28.

5/ Ibid., art. 29.

6/ Ibid., art. 18.

7/ Ibid., art. 23.

those recorded in the State Register or the annual official list; failure to conserve and store these products as prescribed; and the use of seed or planting material not complying with national standards or internal norms.

Save where the present Law provides otherwise, the provisions of Law No. 2/1970 concerning the quality, and quality control of goods apply to the all activities having to do with the production of seed and planting material 1/.

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1/ 1974 Law, art. 23.

## SPAIN

### CURRENT LAWS AND REGULATIONS

Act No. 11/1971: The Seed and Nursery Stock Act. - 30 November 1971. - Boletín Oficial del Estado No. 78, 1 April 1971, p. 5300.

Decree No. 3156/1972 of the Ministry of Agriculture organizing the National Seed and Nursery Stock Institute. - 26 October 1972. - B.O.E. No. 277, 19 October 1972, p. 20571.

- Order of the Ministry of Agriculture implementing Decree No. 3156/1972 concerning the organizational structure of the National Seed and Nursery Stock Institute. -15 March 1973. - B.O.E. No. 73, 26 March 1973, p. 5899.
- as amended by: Order of the Ministry of Agriculture amending the Order of 15 March 1973 concerning the organizational structure of the National Seed and Nursery Stock Institute. - 15 September 1975. - B.O.E. No. 231, 26 September 1978, p. 20345.

Decree No. 3767/1972 of the Presidency of the Government approving the General Regulations governing the Production of seed and nursery stock. 23 December 1972. - B.O.E. No. 37, 12 February 1973, p. 2620.

Order of the Ministry of Agriculture approving the General Technical Regulations for the Control and Certification of Seed and Nursery Stock. - 26 July 1973. - B.O.E. No. 190, 9 August 1973, p. 16221.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Self-Pollinating Cereal Seed. - 28 November 1973. - B.O.E. No. 299, 14 December 1973, p. 24222.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Seed Potatoes. - 30 November 1973. - B.O.E. No. 11, 12 January 1974, p. 680.

Order of the Ministry of Agriculture approving the General Regulations for the Registration of Commercial Plant Varieties. - 30 November 1973. - B.O.E. No. 12, 14 January 1974, p. 744, together with the following subsidiary enactments:

- Resolution of the Department of Agricultural Production approving the List of Commercial Varieties of Potatoes, as entered in the Provisional Register of Commercial Plant Varieties. - 31 July 1974. - B.O.E. No. 227, 21 September 1974, p. 19376.
- Resolution of the Department of Agricultural Production prescribing rules for the registration of varieties of roses and carnations, pursuant to the Order of 26 July 1973 of the Provisional Register of Commercial Plant Varieties.- 31 July 1974. -B.O.E. No.227, 21 September 1974, p. 19376.
- Order of the Ministry of Agriculture extending the Provisional Register of Commercial Plant Varieties to new species. - 7 April 1976. - B.O.E. No. 115, 13 May 1976, p. 9264.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Beet Seed. - 19 July 1974. - B.O.E. No. 186, 5 August 1974, p. 16100, as amended by:

Order of the Ministry of Agriculture amending the Technical Regulations for the Control and Certification of Beet Seed. - 29 July 1975. - B.O.E. No. 194, 14 August 1975, p. 17288.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Sorghum Seed. - 29 October 1974. - B.O.E. No. 269, 9 November 1974, p. 22796.

Act No. 12/19752 The New Plant Varieties Protection Act. - 12 March 1975. - B.O.E. No. 63, 14 March 1975, p. 5287.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Cottonseed. - 31 March 1975. - B.O.E. No. 115, 14 August 1975, p. 10049.

For corrigendum see B.O.E. No. 152, 26 June 1975, p. 13885.

Order of the Ministry of Agriculture approving the Technical Regulations for the Control and Certification of Forage Crop Seed. - 31 January 1976. - B.O.E. No. 43, 19 February 1976, p. 3446.

For corrigendum see B.O.E. No. 86, 9 April 1976, p. 7174.

Crown Decree No. 1674/1977 approving the Technical Regulations for the Control and Certification of New Plant Varieties. - 10 June 1977 - B.O.E. No. 164, 11 July 1977, p. 15514.

## OBJECT AND SCOPE

The preambular section to Act No. 11 of 1971 spells out the considerations that the legislator has had in mind, viz.:

- The desire to stimulate the production of high quality seed and to encourage its use by farmers, this being an investment with one of the highest multiplying factors in the economy of any farm;
- the need to align national laws with international agreements;
- the need to secure uniformity and consistency in the seed production sector.

Both the Act and the Regulations state at the very outset that their object is to promote, improve and afford protection for the production of seed and nursery stock and to encourage the use of such seed and stock of the highest quality and, at the same time, to prescribe rules governing their circulation and marketing 1/.

These legislative provisions deal not only with seed in the strict sense but also with nursery stock. They affect seed and planting material of the following species: cereals, pulses and other grain producing plants; horticultural plants; forage and fodder plants for laying down range land and pasture, and other crops for animal feeding; industrial plants: textile, sugar oilseed and other crops providing raw materials for industrial processing; flower-bearing plants; fruit trees and bushes; seed potatoes and other tubers and bulbs; ornamental garden and medicinal species and, in general, all plants susceptible of economic use in agricultural and agriculture-associated industries.

Expressly excluded from the scope of the Act and the Regulations are seed and nursery stock of forest species 2/.

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1/ Act No. 11/1971, sec. 1; General Regulations of 1972, reg. 1.

2/ Ibid.

## CONCEPTS AND BASIC TERMS

Definitions are given of seed, the various types of seed, nursery stock (this being a different concept from that of seed) and variety.

By seed is to be understood botanical materials intended for the multiplication of the species, and includes tubers, "bulbs and other organs and plant material used for reproduction purposes 1/.

Seed comprises the following categories:

1. Parental material 2/:

This is the smallest unit used by the breeder to maintain his cultivar. From it all seed of the cultivar is derived via one or more generations preceding Basic Seed.

Parental material is referred to as generation G-O. Successive generations preceding Basic Seed are referred to as G-1, G-2, G-3, etc. 3/. The number of generations coming before Basic Seed will be that determined by the breeder when he applies for registration in the Register of Commercial Varieties or, again (if it is a question of varieties in the public domain), that indicated in the Technical Regulations. For example, in the case of self-pollinating cereal seed the number of generations, in order to produce basic seed, beginning with G-O, will be four 4/.

2. Basic seed 5/:

Basic seed is seed obtained by natural or controlled selection for the purposes of certified seed production.

Basic seed must be produced by authorized breeders from parental material and in accordance with the approved selection procedures. Exceptionally, in the case of seed potatoes, two classes are distinguished in Basic Seed, viz., Super-Elite (SE) and Elite (e). The former precedes the last generation before Basic seed; and from it Elite seed is obtained 6/.

3. Certified seed 7/:

Certified seed is that which precedes immediately Basic seed or other Certified seed and has been obtained by a breeder authorized for this purpose in accordance with the Technical Regulations.

As the request of the breeder of a variety and subject to prior government approval, Certified seed may be deemed to be that obtained from generations preceding Basic seed.

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1/ Act No. 11/1971, sec. 3. General Regulations, 1972, reg. 3, change the definition slightly (this is repeated under the General Technical Regulations, 1973, reg. 4).

2/ General Regulations, 1972, reg. 5.a.1; General Technical Regulations 1973.

3/ Technical Regulations - Self-Pollinating Cereal Seed, 1973, II b.

4/ Ibid., IV b.2.

5/ General Regulations, 1972, reg. 5.a.2; General Technical Regulations, 1973, reg. 6.b.

6/ Technical Regulations - Seed Potatoes, 1973, III.

7/ General Regulations 1972, reg. 5.a.7; General Technical Regulations, 1973, reg. 6.c.

A distinction is made in the case of Certified seed between:

- (a) First generation Certified seed: that obtained directly from Basic seed;
- (b) Second and subsequent generation seed, i.e.: that obtained from one or more generations subsequent to that of first generation Certified seed. The number of subsequent generations permitted for the respective species will be prescribed in the Technical Regulations. In the case of potatoes and other vegetatively propagated species and with sugarbeet, the Certified category contemplates other subdivisions 1/.

4- Authorized seed (International term: Standard seed) 2/:

This seed is obtained by authorized breeders and is of proven identity and varietal purity. It is subject to post-control but does not have to meet all the requirements for classification as Certified seed. The Technical Regulations indicate the species for which this category of seed is contemplated and prescribe the conditions governing production. "Authorized" seed is recognized for almost all forage crops 3/.

5. "Tolerated" seed (International equivalent: "Commercial seed") 4/:

This is a category of seed obtained by authorized breeders in which only the species is identified. It meets conditions prescribed by the Technical Regulations. The latter indicate the species in which this category of seed is contemplated, together with the conditions to be met for marketing purposes. "Tolerated" seed is recognized for almost all forage crops 5/.

6. "Seed recognized exceptionally" 6/.

In exceptional cases where demand cannot be met with seed of the categories mentioned above, official recognition may be given to such seed as may seem expedient subject to rules to be prescribed in each case.

By Commercial Variety (International term: cultivar) is meant the assemblage of cultivated plants which are clearly distinguished by certain morphological, physiological, cytological, chemical or other characteristics of agricultural or economic significance which may be perpetuated by reproduction 7/. A commercial variety may be:

- (a) selected commercial variety (cultivar by selection or breeder's cultivar), which is obtained as a result of breeding techniques; or,
- (b) local commercial variety (local cultivar), from a defined geographic region of origin which has not been produced as a result of controlled breeding techniques.

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1/ Technical Regulations - Seed Potatoes, 1973, III; - Beet, 1974, II.3.

2/ General Regulations, 1972, reg. 5.a.6.

3/ Technical Regulations, forage plants, 1976, II and schedule II.

4/ General Regulations 1973, reg. 6.g.

5/ Technical Regulations, forage plants, 1976, II and Schedule II.

6/ General Technical Regulations, 1973, II and Schedule II.

7/ Act No. 11 of 1971, sec. 4; General Regulations, 1972, reg. 4; General Technical Regulations 1973, reg. 5.

## ROLE OF THE GOVERNMENT AUTHORITIES

In the matter of seed control, powers vest in the Ministry of Agriculture, under whose authority all production and marketing 1/ operations are carried on. The Act 2/ provides that the duties assigned to the Ministry shall be carried out by the National Seed and Nursery Stock Institute. This is a self-governing agency, having legal personality and reporting to the Department of Agricultural Production 3/ of the Ministry of Agriculture.

The National Seed and Nursery Stock Institute is assigned other powers and duties 4/, which include prescribing categories of seed, systems of certification, cultivation standards and standards for imports, conducting official analyses, inspecting production and marketing and keeping specified registers.

The Institute will provide guidance and control, while, as a general principle, production and marketing are left to private enterprise. The public agencies may undertake these activities only in case of necessity. The Ministry of Agriculture may similarly (through still in an accessory capacity) take the initiative in matters of supply and may multiply or import seed, where private enterprise fails to meet demand 5/.

The Institute is governed by a Central Board, and has a Director and a General Secretary 6/. The Director is appointed by the Minister of Agriculture, represents the Institute and is head of the technical and administrative services. The General Secretary assists the Director in his task, deputizes for him in his absence, and is head of personnel. The Central Board comprises a Chairman, a Vice-Chairman, Members and a Secretary.

The Chairman of the Board is appointed by the Minister. The Vice-Chairman is the Director of the Institute, and the Secretary of the Board is the Secretary of the Institute. The membership consists of:

- (a) four representatives of the self-governing research, extension, production and marketing agencies of the Ministry of Agriculture, appointed by the Minister;
- (b) one representative of the Ministry of Commerce;
- (c) two auditors of the Institute, appointed by the Treasury;
- (d) five officers of the Institute, nominated by the Director;
- (e) six representatives of the Syndical Fraternity of Farmers and Stock-breeders;
- (f) four representatives of seed producers, nominated by the Syndical Association of Seed Producers;
- (g) two representatives of the nurserymen.

The legal counsel and the technical advisers appointed by the Chairman at his entire discretion may participate in the deliberations of the Board but do not vote.

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1/ Act No. 11/1971, secs. 5 to 7.

2/ *Ibid.*, sec. 10.

3/ General Regulations of 1972, reg. 10.

4/ Act No. 11 of 1971, sec. 11, General Regulations, 1972, reg. 16.

5/ General Regulations, 1972, reg. 7.

6/ Act No. 11, 1972, secs. 12 to 18; General Regulations, 1972, regs. 12 to 18; Decree No. 3156/1972.

## QUALITY CONTROL

The National Seed and Nursery Stock Institute keeps two types of register 1/, viz., the Register of Protected Varieties and the Register of Commercial Varieties.

The Register of Protected Varieties lists new bred or discovered varieties. Each new variety entered in the Register is covered by a plant breeder's right, which furnishes the breeder with specific guarantees at law as determined by the Act and the Regulations governing the protection of new plant varieties 2/.

The Register of Commercial Varieties, which is governed by the General Regulations for the Register of Commercial Varieties, 1973, catalogues all varieties that are distinct, stable, sufficiently homogeneous and have an agricultural or other use 3/. Applications for registration are made by the breeder himself. In the case of varieties in the public domain, this may be done ex officio by the Agricultural Production Department. Registration is valid for ten years, renewable for similar periods, and obliges the applicant to maintain the variety 4/.

Once the procedures for entering a variety in the Register of Commercial Varieties have been completed, the variety in question is ipso facto included in one or other of the following lists of commercial varieties, which the Ministry of Agriculture is required to publish in the Official Gazette:

- (a) List of Commercial Varieties: this includes all varieties that may be produced and marketed;
- (b) List of Commercial and Recommended Varieties: here are included those varieties that are especially indicated for certain areas for certain purposes;
- (c) List of Restricted Commercial Varieties, in which are entered varieties that may be marketed only for use in specified areas or growing conditions;
- (d) List of Commercial Varieties for Export: this covers all varieties that may be produced in Spain for export only 5/.

Registration through the fact of being entered in any of these lists remains valid for ten years just as in the case of inclusion in the Register of Commercial Varieties, and is renewable for similar periods of time 6/.

The legal effects of these lists are as follows: varieties not included in them which, however, belong to species for which the Ministry has published lists may not be produced or imported by way of trade 7/. Varieties belonging to species for which the Ministry has not yet published a list of commercial varieties may be produced or imported by way of trade provided the trials for the number of years and under conditions prescribed in the Regulations have been carried out. In the case of fodder crops, for example, for those species of which there is no list of commercial varieties the minimum requirement is two years' trials with positive results 8/.

By means of these lists of varieties are determined also those varieties that are accepted for certification, subject to the following conditions. The technical control and certification regulations indicate, first of all, those species and - by implication, the varieties within the species - which come under the regulations in question. Thus, they name the

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1/ General Regulations, 1972, reg. 5.c.

2/ Act for the protection of new plant varieties, 1975; General Regulations for the protection of new plant varieties, 1977.

3/ General Regulations for the Register of Commercial Varieties, 1973, reg. 5.

4/ Ibid., regulations 17 and 18.

5/ General Regulations for the Registration of Commercial Varieties, 1973, regs. 30 and 31.

6/ Ibid., regulations and General Regulations, 1972, reg. 5.c.3.

7/ General Technical Regulations, 1973, reg. 7.

8/ Technical Regulations, Forage Seed, 1976, III, 3.

varieties whose entry, if any, in the register and the List of Commercial Varieties is conditional upon their meeting the standard laid down in the regulations. Next, it is stated that only those varieties may be subject to the certification processes which, *de facto*, in order for them to be produced and marketed under official control, are included in specified commercial lists (which list will depend on the group of the seed involved). Thus, in the case of self-pollinating cereals and of sorghum, only those varieties may go through the certification process which are included in the Lists of Commercial Varieties for Export, and in the case of potatoes, cotton, and beet, only varieties included in the List of Commercial Varieties.

The certification systems guarantee, through government control, that both production and handling operations have been carried out according to the Technical Regulations prescribed so that the purchaser may be sure that the seed he buys possesses the stated characteristics 1/.

In order to achieve this purpose, the Technical Regulations for each species prescribe at least the following 2/:

1. Species covered by the Regulations in question;
2. Type of cultivar or variety admitted to certification;
3. Categories of seed admitted for the species in question;
4. Production process requirements;
5. Requisites applicable to the seed it is proposed to produce, with special reference to the requisites applying to Basic and Certified seed;
6. Post-control tests required;
7. Conditions to be met in order to be a producer;
8. Labelling and marketing rules;
9. Special rules governing imported and exported seed.

The Technical Regulations for Control and Certification are geared to be above points. It should be noted that for seed certified in accordance with the international systems to which Spain has acceded, in particular the CECD certification scheme, the designated authority is the National Seed and Nursery Stock Institute 3/.

These Control and Certification schemes are important, since only inspected wares may enter into the distribution network. Furthermore, as a general rule the term "seed" may be applied to that of the species in question only if it is obtained from cultivars controlled by the Institute and meets the requirements applying for the respective category (cf. the introductory text to the specific technical regulations).

## PRODUCTION

### Seed producers 4/

The production of seed varieties that are in the public domain is the responsibility of the producers authorized for that purpose by the Institute. These producers are required to be in possession of a "seed producer" qualification, which is assigned by the Ministry of Agriculture for species or groups of species. There are three categories of seed producers:

- (a) Breeder-producers, who grow Parental material of varieties bred by them for the purpose of multiplication;
- (b) Selector-producers, who grow Basic seed and seed of the other categories;
- (c) Multiplier-producers, who grow only seed of categories below the Certified seed category.

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1/ Act No. 11, 1971, sec. 5.b; General Technical Regulations, 1973, reg. 1.

2/ General Regulations, 1972, reg. 6.2.

3/ General Technical Regulations, 1975, regs. 1 to 26.

4/ *Ibid.*, VII.

Each of the above categories of producers (and one and the same person may qualify for all three) implies that the interested party must satisfy certain requirements (disposition of fields, and availability of technical staff, in particular). All such persons must be listed in the Register of Producers.

In certain cases, farmers are allowed to collaborate with producers for seed multiplication purposes, the rules governing contracts between them being determined by the Institute.

Firms engaging in seed production may receive aid from the Institute, loans from the Agricultural Credit Bank and the benefits available to branches of agro-industry declared to be of special interest. The Act also lays down that private enterprise is to be promoted by the setting up of research associations 1/.

#### Requirements governing production processes and processed seed

Crops must be grown in accordance with the rules contained in the specific Technical Regulations governing the group of species in question. These rules generally lay down for each species and category of seed the following 2/:

- (a) production areas for the species or the category of seed;
- (b) minimum sizes and identification of plots of land and maximum or minimum number of plants per hectare;
- (c) number of years that must elapse since certain species were grown on the plot;
- (d) number of years that the land must have been free from specified diseases or pests;
- (e) dates and other limitations on growing, if pertinent;
- (f) minimum distances from other crops of the same or a different species;
- (g) maximum percentage of off-type plants, doubtful plants, plants of other species or of other varieties;
- (h) maximum percentage permitted of plants affected by diseases or pests, that can be transmitted via the seed or other parts of plants used for multiplication purposes;
- (i) stage reached and other growing conditions in which inspections are to be carried out by the control officers and cleansing operations by the technical staff.

The Technical Regulations also prescribe the standards to be met by the seed as regards all or some of the following characteristics:

1. Specific purity.
2. Varietal purity.
3. Germination capacity.
4. Moisture content.
5. Morphological characteristics: calibre, colour, etc.
6. Broken or husked seed.
7. Sanitary condition.
8. Phytosanitary treatment.
9. Conditions applying to special seeds monogerm, polyploid, etc.
10. Other particular characteristics.

Both the requirements respecting processes and those respecting the seed itself are for the most part of a technical nature, as exemplified by the following tables referring to self-pollinating cereals (wheat, barley, oats, rice) 3/.

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1/ Act No. 11/1971, sec. 9; General Regulations, 1972, reg. 9.1.5.

2/ General Technical Regulations, 1973, regs. 8, 10 and 15.

3/ Technical Regulations, Self-Pollinating Cereals, 1973, schedules 1 and 2.

REQUIREMENTS RESPECTING PRODUCTION PROCESSES

Category of Seed	Size of plot (minimum) <u>ha</u>	Isolation (minimum distance) <u>m</u>	Number of plants of other varieties (maximum)	Number of plants of other cultivated species (maximum)	Number of diseased plants (max. per ha)	Plants attacked by <u>Tilletia</u> (max. per ha)
Basic Seed	3	5	1/5 000	<u>20</u> /ha	50	5
Certified Seed (R-1 for R-2)	10	2	1/1 000	1/10 000	100	10
Certified Seed R-1	10	2	2/1 000	2/10 000	500	50
Certified Seed R-2	10	2	3/1 000	4/10 000	1 000	50

REQUIREMENTS RESPECTING SEED

Category of Seed	Specific purity (minimum) %	Inert material (maximum) %	Varietal purity (minimum) %	Seed of other cereals (maximum No. per 500 g)	Seed of other species (maximum No. per 500 g)	Germinative capacity (minimum) %	Moisture content (maximum) %	Seed attacked by smut (maximum No. per 500 g)	Seed attacked by blight (maximum No. per 500 g)
Basic Seed	98	2	99.9	1	4	90	14	1	0
Certified Seed (R-1 for R-2)	98	2	99.8	3	10	90	14	2	0
Certified Seed R-1	98	2	99.7	5	1.0	90	14	3	0
Certified Seed R-2	98	2	99.5	7	10	90	14	5	0

## MARKETING

### General rules

Any firm or individual storing or marketing seed must be registered with the relevant Provincial Office of the Ministry of Agriculture 1/. Only recognized seed producers are exempted from this requirement, since that qualification automatically authorizes them to sell their product throughout the national territory 2/.

Seed may be marketed only under the descriptions assigned to it in the Register of Commercial Varieties. Where no register has been set up for a given species, the nomenclature must nevertheless respect the rules prescribed by the regulations 3/.

Trade in seed is not normally subject to price restrictions. However, the Ministry of Agriculture may fix maximum prices whenever it is decided to provide economic or technical assistance with a view to promoting certain crops 4/.

### Packaging, sealing, labelling

Seed must be put up in new packs or containers, sealed and labelled by the Institute. At no time may seed be sold or otherwise distributed in bulk.

Packages are sealed, under Institute control, in such a way that it is impossible to use the seed without damaging or breaking the package, wrapping or seal. Seals have a maximum validity of ten months unless otherwise provided in the Technical Regulations (e.g., in the case of beet seed, the maximum period of validity is two years and in the case of forage crops two, or three years). The Institute prescribes rules for sealing seed obtained from previous harvests. Generally it is not permitted to break up the contents of original packages into smaller amount without submitting these to official sealing afresh. Exceptionally producers may be authorized to do so.

Packages must be accompanied by two labels: that of the producer and the official contents label. Producers are required to affix to the packages their label (and enclose a copy of it inside the package) bearing the following minimum information:

- name of producer
- species
- variety (unless the contents are "tolerated" seed)
- category
- lot reference number
- specific purity (percent)
- chemicals, if any, used to treat the seed
- additional information required under the Technical Regulations for the species in question.

Official labels, which are supplied by the Institute, contain the following minimum information:

- heading, with the name and address of the National Institute
- species
- variety (unless the contents are "tolerated" seed)
- category
- lot reference number and label number

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1/ General Technical Regulations, 1973, reg. 44.

2/ General Regulations, 1972, reg. 8.3.

3/ General Technical Regulations, 1973, reg. 41.

4/ General Regulations, 1972, reg. 8.5.

- net weight, gross weight or number of seeds as prescribed by the relevant Technical Regulations
- name of producer
- country of production
- seal expiry date or seal validity expiry date, and
- the words "the producer declares the seed contained in the package to correspond to the variety or species stated on this label and that it has been obtained by cultural methods approved by the National Seed and Nursery Stock Institute, In the course of sealing operations, the said Institute has taken into its keeping a sample from this lot, to be duly stored (except in the case of tubers and similar material) for a period of two months beyond the period of label validity ".

The official label measures 110 x 67 mm. It is white for Basic Seed, blue for Certified Seed or first generation Certified Seed, red for Certified Seed of subsequent generations, yellow for Authorized Seed and brown for "Tolerated" seed.

Both the official label and the producer's labels (i.e. the outer label and the copy placed inside the package) may be replaced by the indelible imprinting of the data on the package itself.

#### Extension and publicity 1/

With a view to encouraging a wider use among farmers of controlled production seed, the Ministry of Agriculture is empowered to provide aid for the production and the purchase of seed, chargeable to the budgets of the programmes under the Public Investment for Development Plans.

In order to protect users against unfair advertising, all commercial publicity having to do with seed must first be submitted for the Institute's approval. If the Institute does not answer the application within one month, approval may be presumed. Prior approval is not necessary in the case of the publication of pricelists and commercial publicity not containing technical matter, provided the published matter has been authorized in general terms by the Institute, which must in any case be supplied with three copies of the text.

## LAW ENFORCEMENT

Seed production is subject to both private control and official control. Producers are required to have laboratories and sufficient staff to maintain plots free at all times from undesirable matter 2/. They notify the National Institute sufficiently in advance of their general plan for sowing and must keep registers of files of inspections carried out. Information must similarly be supplied concerning crops (variety, origin, area sown, locality, etc.) and production processes (e.g. onset of spike stage for cereals and of anther emergence for sorghum).

Official inspection and control tasks are the responsibility of the National Institute. The latter has a Branch for the Technical Laboratories and Registers of Seed Varieties, which in turn includes a seed testing station, with its analysis and plant health sections.

The inspection of the growing crop is carried out at least during the periods prescribed by the relevant Technical Regulations. A representative of the producer must be present at such inspections 3/. In the case of self-pollinating cereals, for example, the Institute staff will inspect production fields for Basic seed and earlier generations at least once in each of the tillering, boot, earing and ripening stages, and with Certified seed at least once after earing is complete and before harvesting 4/.

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1/ Act No. 11/1971, sect 9; General Regulations, 1972, reg. 8.7; General Technical Regulations, 1973, reg. 52.

2/ General Technical Regulations, 1973, regs. 34 and 35.

3/ Ibid., reg. 13.

4/ Technical Regulations, Self-Pollinating Cereals, 1973, IV.

Also of importance are the pre-control and post-control tests 1/. Pre-control tests of a generation about to be produced are carried out on seed intended for further multiplication. Post control tests are designed to ensure that the certification system functions properly - this "by means of checks on varietal or specific identity and purity of the different lots of seed not intended for further multiplication.

Producers are required to maintain pre-control fields, in which, under Institute control, they are to sow samples of each lot of seed that they have packaged. They must also cultivate post-control plots the season following the harvesting of the seed in question. On such plots they must sow a percentage of the seed so obtained as prescribed by the Technical Regulations (in the case of self-pollinating cereals, ten percent of the lots of the remaining Certified seed). The Technical Regulations also indicate the minimum size or minimum number of plants, data required, etc., for pre-control and post-control purposes.

Tests, analyses and sample taking are done to secure observance of the rules laid down by the Technical Regulations. The definitions of terms and expressions relating to seed quality and method for sample taking and the conducting of analyses to be followed by the producers and the Institute's Laboratories are those given in the rules of the International Seed Testing Association 2/.

Similarly, marketing operations must be conducted under the control and supervision of the appropriate authority 3/. All processes to which seed is submitted from harvesting in the field to official sealing are inspected by National Institute staff, who are empowered to take samples at any time. In the performance of its supervisory functions with respect to the marketing of seed, the Institute may, if necessary, call in the help of the Services for the Prevention of Fraudulent Practices and of those for Agricultural Testing and Analyses.

At the time of sealing an official sample is taken from each lot of seed. The sample is divided into two parts, one half remaining with the producer, the other being used by the Institute for the post-control test and laboratory analyses. When it is permitted to break up original packs into smaller quantities, producers are required to keep the notices for the respective sales for a year beyond the expiry of the validity of the seal. In the event of complaints being made, these notices are to be furnished to the Institute. The latter may take samples of any lot of seed even after sealing. For this purpose, the official breaks the seal in the presence of witnesses and takes a sample. This is divided into three parts, one of which remains with whoever is in possession of the lot at the time, one is given to the producer and the third is forwarded to the Institute.

On the occasion of any sale, the purchaser is entitled to demand that an official sampling procedure be gone through as just described. Any difference in quality in excess of the permitted deviation as laid down in ISTA standards entitles the purchaser to compensation under the terms of the General Technical Regulations 4/. If it is demonstrated that seed already put to use does not meet the statutory conditions, thereby causing the user to suffer loss, the vendor - provided no malicious intent was involved - is liable for compensation to the injured party for up to a maximum of double the price paid for the lot of seed involved.

Seed storage is controlled by the use of a register which every warehouse must keep and produce for inspection by the Institute if required. In this register are noted, by species and variety, all seed goods in and seed goods out. Unless by special authorization of the Institute, no grains/seed intended for use other than multiplication or reproduction may be stored in a seed warehouse. At the end of the crop year, returns are sent to the Institute, for statistics purposes, of sales made, with breakdown by species and variety, of stock remaining and an indication of their condition. The returns in question are made public only in terms of the overall picture that they provide.

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1/ General Technical Regulations, 1973, VI.

2/ General Technical Regulations, 1973, regs. 15, 45, 48 and 50.

3/ General Regulations, 1972, regs. 8.6 and 8.8; General Technical Regulations, 1973, regs. 17, 45 and 53.

4/ General Technical Regulations, 1973, reg. 45.

## IMPORTS AND EXPORTS 1/

Where imports are concerned, the same law applies, as a general principle, as that governing national production, and in fact "producers and importer" are customarily spoken of together in that single expression. The Institute controls seed imports and issues the necessary certificates. It may prohibit the distribution of seed that is not suitable for the agricultural conditions obtaining in Spain. The quality of any imported seed may be ascertained by reference to a valid certificate issued by a seed testing station authorized by ISTA, or to other certificates that are sufficient in the judgement of the Institute, subject to conditions of reciprocity with the country of origin of the seed. Seed imported for multiplication is to be kept in the original packages with their labelling intact. When sampling is carried out, the Institute may stamp and place a date mark on the original labels. Seed imported for marketing purposes may remain in its original packages and with the certificates of origin, the importer affixing labels in the Spanish language. Where an importer so requests, the packages may be labelled and sealed afresh in the same way as for seed produced in Spain.

In the matter of exports, the Institute may authorize the production of seed exclusively for this purpose without requiring compliance with exigencies applying in the case of inclusion in the List of Commercial Varieties (as noted earlier, there is a separate List of Commercial Varieties for Export). The Institute is the designated agency responsible for issuing instructions where exports are concerned. The Institute's Laboratories are ISTA-accredited for the purposes of analysis and testing.

## OFFENCES AND PENALTIES 2/

Seed production or trade not complying with the law is deemed to constitute an offence rendering the contravenor liable to an administrative penalty, irrespective of any third-party or criminal liability that may be involved. These administrative offences comprise acts that infringe the regulations, clandestine acts and fraudulent practices.

The first-mentioned are purely formal infringements without their giving cause to suppose that there has been any attempt to act clandestinely or with fraudulent intent. Examples would be the distribution of unauthorized publicity material, of failure to keep stock registers, etc., up to date. The administrative fines imposed in these cases range from 1 000 to 25 000 ptas 3/.

Clandestine acts are those where the intent is to circumvent enforcement rules and procedures. For example, to produce or trade in seed without the requisite authorization, to sell seed not sealed by the Institute, and failure to make out sales invoices, come under this heading and may be punished with fines of from 10 000 to 50 000 ptas, and if necessary, the seizure of the seed.

Fraudulent acts are those where the intent is to defraud as to the nature, quality, weight or price or otherwise, and include offences committed by producers in connection with their obligation to package and label seed in packages sealed by the Institute. The penalty in these cases will be fines of from 20 000 to 100 000 ptas together with payment of the cost of taking and analysing samples, etc. The seed may also be seized.

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1/ General Regulations, 1972, reg. 5.f.; General Technical Regulations, 1973, regs. 7 and 48-51.

2/ Act No. 11/1971, secs. 19 to 24; General Regulations, 1972, regs. 18 to 28; General Technical Regulations, 1973, reg. 51.

3/ 1 U.S. \$ = 83 ptas.

For second offences fines are increased by 50 percent; further repetition of the offence may entail as much as the trebling of the fine. For the exemplary effect it might have, the Ministry of Agriculture may order the publication of the penalties in the Official Gazette. The procedure to be followed is that laid down in the Administrative Procedure Act. Depending on the amount of the fine, the matter is dealt with by the Services for the Prevention of the Fraudulent Practices or for Agricultural Tests and Analyses, by the Director-General of Agricultural Production or by the Ministry of Agriculture.

There are special rules for products intended for export. Here the fines described may be doubled. Imports or exports made without the mandatory certificates or the marketing, distribution and use of lots imported without authorization are deemed to be clandestine acts.

## TUNISIA

### CURRENT LAWS AND REGULATIONS

Act No. 76-113 to provide for the organization and control of the production and marketing of seeds and planting material. - 25 November 1976. - Journal officiel de la République tunisienne, No. 73, 26 November 1976, p. 2893 1/.

This is a "basic act, consisting of only twelve sections, providing the legislative structure for the entire sector. Enforcement provisions are to be issued by Decree.

### OBJECT AND SCOPE

The Act concerns seed and planting material 2/.

### BASIC CONCEPTS AND TERMINOLOGY

By seed and planting material are meant any seed, plants and parts of plants intended for plant production generally 3/.

Seed and planting material of all species of agricultural plants are classified as follows:

- Basic seed and planting material;
- Certified seed and planting material;
- Standard seed and planting material;
- Commercial seed and planting material.

The conditions governing classification into one or other of three categories are prescribed by decree 4/.

### ROLE OF THE GOVERNMENT AUTHORITIES

The competent authority is the Ministry of Agriculture, which provides for the organization and control of the production and marketing of seed and planting material 5/.

The Act appoints a National Advisory Seed and Planting Material Committee to be responsible for developing national policy in these matters. The Committee's powers and duties are determined by Decree on the proposal of the Minister of Agriculture 6/.

The National Agricultural Research Institute at Tunis is assigned the task of keeping the various Lists and Catalogues concerned 7/.

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1/ Published in extenso in FAO Food and Agricultural Legislation Vol. XXVI, No. 2.

2/ Act, 1976, sec. 1.

3/ Act, 1976, sec. 2.

4/ Ibid., sec. 3.

5/ Ibid., sec. 1.

6/ Ibid., sec. 8.

7/ Ibid., secs. 4 and 7.

## QUALITY CONTROL

Seed sector planning at the national level is largely a matter of the Official Catalogue of Species and Varieties of Agricultural Plants. Here are entered those varieties of crops which are of some use value to the country. The species affected are to be determined, by decree, as well as the conditions governing and procedures for registration in (or exclusion from) the Catalogue, and the conditions governing equivalences with any foreign catalogue 1/.

The importance of this catalogue resides in the fact that, as a general principle, only seed and planting material entered there may be marketed. There are exceptions to the rule, namely: foreign varieties and varieties bred in Tunisia may be accepted for marketing and inspection if they have been entered in a special Waiting List. Again, varieties whose existence was a matter of common knowledge before the present Act and its subsidiary legislation entered into force may be similarly entered, but in a Provisional List 2/.

## PRODUCTION

The Ministry of Agriculture is responsible for the control of production of seed and planting materials 3/. Those intended for sale may be produced only under the civil and penal responsibility of public or private bodies operating in this sector and authorized for the purpose by the Minister of Agriculture 4/.

## MARKETING

General provisions. Only those seeds and planting material which are entered in the Official Catalogue of Species and Varieties of Agricultural Plants are admitted to marketing and inspection - reference has already been made to exceptions to this rule with regard to foreign varieties and varieties bred in Tunisia and entered in the Waiting List, and existing varieties entered in the Provisional List 5/.

As in the case of seed production, public and private establishments marketing seed and planting material, being authorized for that purpose by the Minister of Agriculture, do so under their civil and penal liability. The conditions governing authorization of these establishments are determined by decree 6/.

Conditions governing the marketing of seed and planting material of the various categories and varieties are prescribed by decree 7/.

### Packaging; sealing; labelling

All seed and planting material must be marketed in appropriate packages, save where the Minister of Agriculture grants a special waiver. Formalities concerning the transport, packaging, issuance of certificates and the conditions applying to each are determined by decree.

It is prohibited to use any statement, sign or other mode of presentation likely to create confusion in the mind of the purchaser as to the nature, purity of the species or variety, origin, age, sanitary condition or size-grading of seed or planting material 8/.

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1/ Act, 1976, art. 4.

2/ Ibid., art. 4.

3/ Ibid., art. 1.

4/ Ibid., art. 5.

5/ Ibid., art. 7.

6/ Ibid., art. 5.

7/ Ibid., arts. 3 and 7.

8/ Ibid., art. 6.

## LAW ENFORCEMENT

Control of production and marketing in the responsibility of the Minister of Agriculture and proceeds in conformity with international practice, with due regard to the special conditions obtaining in Tunisia 1/.

Fees, to be determined by decree, are payable for the inspection and testing analysis of seeds and planting material and their registration in the Official Catalogue of Species and Varieties of Agricultural Plants. Procedures for the payment of these fees are also provided for 2/.

## IMPORTS AND EXPORTS

The conditions governing the export of varieties of seed and planting material are prescribed by decree 3/.

## OFFENCES AND PENALTIES

With due regard to any penalties prescribed under the laws for the prevention of fraud in trade in goods and the adulteration of foodstuffs or agricultural or natural products and in relation to the protection of manufacturers' marks and registered trade marks, any offence under the Act and subsidiary enactments may be punished with a fine of from 50 to 500 dinars or with a term of imprisonment of from six months to two years or with both such fine and imprisonment.

In addition, inspectors may order the confiscation, quarantine or destruction of seed and planting material not in conformity with the Act and any subsidiary legislation thereunder - this irrespective of any administrative sanctions that may be invoked against the offender such as declassifying the seed or suspending or revoking his authorization 4/.

Offences are reported and judicial procedures followed as in cases of the prevention of fraudulent practices 5/.

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1/ Act, 1976, sec. 1.

2/ Ibid., sec. 9.

3/ Ibid., sec. 7.

4/ Ibid., sec. 10.

5/ Ibid., sec. 11.

## UNITED STATES OF AMERICA

### CURRENT LAWS AND REGULATIONS

Federal Seed Act. - 9 August 1939. - 53 Stat. 1275; 7 United States Code 1551-1610 (1970 Edition).

Federal Seed Act Regulations. - Revision of 1 January 1977. - 7 Code of Federal Regulations Chapter I, Subchapter K, Part 202-202, (1977 Edition).

In the United States there are two principal sources of law where seed is concerned, namely Federal legislation and that of the individual States of the union, both bodies of law dealing with the transport, labelling and commerce of seed. Since the legislation of the individual states bears a close similarity to the Federal laws on these matters 1/ and international implications are dealt with under the latter, it is Federal legislation only that will be considered here.

### OBJECT AND SCOPE

The object is stated in the long title of the Act, namely "to regulate interstate and foreign commerce; to require labelling and to prevent misrepresentation of seeds in interstate commerce; to require certain standards with respect to certain imported seeds; and for other purposes".

Both the Act and the Regulations apply to agricultural seeds and vegetable seeds as defined by the Act and listed in the Regulations 2/. Among items not so listed are seed potatoes.

### BASIC CONCEPTS AND TERMINOLOGY

The expression agricultural seed means grass, forage, field crop seeds used for seeding purposes in the United States and listed in the rules and regulations. The Regulations currently list some 200 kinds of seeds 3/.

The expression vegetable seed includes seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds. The Regulations currently list 67 kinds of vegetable seeds 4/.

Both agricultural and vegetable seed may be certified, a concept not itself defined but whose connotation may be derived from related expressions of seed certifying agency, and of the four classes of certified seed obtaining, viz. breeder, foundation, registered and certified 5/.

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1/ See S.F. Rollin, Seed Legislation in the United States of America, in Proc. Int. Seed Test. Ass., Vol. 32 (1967) No. 2, p. 437-444.

2/ Federal Act, 7 U.S.C. 1970 § 1561; Regulations, CFR, 1977, § 201.2, h.i.

3/ Regulations, 7 CFR, 1977, § 201.2, h.

4/ Ibid., § 201.2, i.

5/ The expressions used in the Regulations are the following: "Classes of certified seed are as follows:

1. Breeder
2. Foundation
3. Registered
4. Certified" (Reg. 7 CFR, 1977, § 201.69).

The name seed certifying agency refers to an agency authorized by the laws of any State or territory of the Union to officially certify seed and applying standards and procedures approved by the Federal Secretary of Agriculture in order to guarantee the genetic purity and identity of the certified seed. In certain cases foreign agencies may be recognized as seed certifying agencies 1/. Breeder seed is a class of certified seed directly controlled by the originating or sponsoring plant breeding institution and is the source for the production of other classes of certified seed 2/. Foundation seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled by the certifying agency in accordance with the specific rules for the purpose of maintaining genetic purity and identity 3/. Registered seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled by the same agency in accordance with the specific rules for the purpose of maintaining its genetic purity and identity 4/. Certified seed is a class of certified seed which is the progeny of Breeder, Foundation or Registered seed and is produced and handled by the certifying seed in accordance with the specific rules for the purpose of maintaining genetic purity and identity. The number of generations for certified seed subsequent to foundation seed is normally limited to two 5/.

Two further important - and related - concepts, namely those of weed seeds and noxious weed seeds carry a slightly different connotation according to whether these items are moving in interstate commerce or are being imported. In the former case, weed seeds are seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of the receiving state: in the latter case, weed seeds refer to seeds or bulblets of all plants belonging to families listed and declared to be detrimental to the agricultural interest of the United States. Noxious weed seeds mean, for the purposes of interstate commerce, the seed of plants recognized as noxious weeds by the states of the Union or by the Secretary of Agriculture, while, where imported seeds are concerned, they refer to those appearing in the list established in the Regulations for this purpose 6/.

## ROLE OF THE GOVERNMENT AUTHORITIES

The responsible authority is the Secretary of Agriculture, who is empowered to make such rules and regulations as he may deem necessary for the effective enforcement of the Act. Where international commerce is concerned these powers are to be exercised jointly by the Secretary of Agriculture and the Secretary of the Treasury. Prior to the promulgation of any rule or regulation, due notice must be given by publication in the Federal Register of intention to promulgate and of the time and place of a public hearing to be held with reference thereto. No rule or regulation may be published until after such a hearing at which all interested parties may make known their views 7/.

## QUALITY CONTROL

The system of seed quality control rests on the truth-in-labelling principle 8/, whereby Federal legislation requires only that producers and vendors indicate on the labels placed on their goods a specified and sufficient amount of information for the purchaser to choose the seed that he believes to be most suited to his needs. This explains how it is that both Act and Regulations deal mainly with labelling matters, interstate and foreign trade and methods of analysis designed to ascertain the exactitude of label statements. Production processes and requirements affecting seed are not dealt with in either of these enactments

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1/ Federal Act, 7 USC, 1970, § 1561 to 25.

2/ Regulations, 7 CFR, 1977, § 201.2 bb.

3/ Ibid., § 201.2 cc.

4/ Ibid., § 201.2 dd.

5/ Ibid., § 201.2 ee. and § 201.70.

6/ Federal Act, 7 USC, 1970, § 1561, 8-9; Regulations, 7 CFR, 1977, § 201.108.

7/ Ibid., § 1592 and Ibid., § 201.201 and following.

8/ Cf. S.F. Rollin, art. cit., p. 438 concerning the truth-in-labelling philosophy.

except as regards certain general indications relating to seed certification and statement of maximum amounts of weed seeds and noxious weed seeds where the presence of these seeds prepared for "bringing with the trade is permitted. In the case of weeds and noxious weeds, the Act and the Regulations depart somewhat from the truth-in-labelling principle (under which producer and vendor are allowed the utmost freedom) by prescribing maximum permitted quantities 1/. This reversal of policy may be ascribed to the fact that the cultivation and sale of these weeds may constitute a risk for third parties - risks against which protection is rarely sufficient.

Seed certification has its own procedures, which are unaffected by the labelling rules, which in other respects govern certified seed and all other seed offered for sale. In order for a seed certifying agency to qualify as such it must enforce standards and procedures as conditions for its certification of seed that meet or exceed those specified in the Regulations for certification 2/.

Although there is no provision for a compulsory official register of varieties, the names of seed appearing on labels must comply with a number of rules. Thus, the class name of agricultural and vegetable seeds must be one of those listed under the relevant definition (see under the heading Basic Concepts and Terminology). The variety name must represent the subdivision of a kind defined as "one or more related species or subspecies which singly or collectively is known by one common name" e.g. flax, cabbage, etc. - normally the name given by the breeder - and must not be misleading 3/.

Plant breeders' rights are protected by comprehensive legislation that has been introduced recently 4/.

## PRODUCTION

Given the system in force as the United States, there are no rules governing seed production as such, each producer being free to make use of the procedures he thinks best. It is only where he wishes to produce certified seed that he is required to observe the requirements laid down by the relevant certifying agency. As already mentioned, the latter is required to enforce standards and procedures that meet or exceed those specified in the Regulations 5/.

The originator, developer or owner of a variety seeking eligibility for certification for that variety must furnish the certifying agency with the following:

- (a) the name of the variety;
- (b) a statement concerning the variety's origin and the breeding procedures used in its development;
- (c) a detailed description of the morphological, physiological, and other characteristics of the plants and seeds that distinguish it from other varieties;
- (d) evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance or other factors supporting the identity of the variety;

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1/ Federal Act, 7 USC, 1970, § 1571, a.5; and Regulations, 7 CFR, 1977, § 201.15 and following.

2/ Regulations, 7 CFR, 1977, § 201.67.

3/ Ibid., § 201.34.

4/ Plant Variety Protection Act, 7 USC 2321 and foll.; and Regulations: "Regulationa and rules of Practice under the Plant Variety Protection Act", 7 CFR, Chap. I, Subchap. H, Part 180.

5/ Regulations, 7 CFR, 1977, § 201.68 to 78.

- (e) a statement delineating the geographic areas of adaptation of the variety;
- (f) a statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;
- (g) a description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplications specified;
- (h) any additional restrictions on the variety, specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity;
- (i) a sample of seed representative of the variety as marketed 1/.

The certifying agency determines that genetic purity and identity are maintained at all stages of certification including seeding, harvesting, processing and labelling of the seed. The unit of certification must be a clearly defined field or fields 2/.

Once the seed has been harvested the processor must obviate the introduction of admixtures, maintain the identity of the seed at all times, keep records of all operations, permit inspection by the certification agency of such records and designate a person to be responsible to the agency for performing any duties it may require 3/.

For the three classes of seed (Foundation, Registered, Certified) for 39 crop kinds, minimum standards are prescribed in respect of the following: (i) "land"; (ii) "isolation"; (iii) "field"; and (iv) "seed" meaning (i) the number of years that must elapse between the destruction of a stand of a kind and the contaminating source; (ii) distance (given in feet) from any minimum number of plants or heads in which one plant or head of another variety is permitted; (iii) the establishment of a stand of a specified class or variety of the same kind; and (iv) the maximum percentage of seed of other varieties or off-types permitted in the cleaned seed. The standards for three cereals barley (excluding hybrid barley), rice and wheat (excluding hybrid wheat), are given below as examples 4/.

Crop kind	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
Barley	1	0	3.000	0.05	1	0	2.000	0.1	1	0	1.000	0.2
Rice	1	10	10.000	0.05	1	10	5.000	0.1	1	10	1.000	0.2
Wheat	1	0	3.000	0.05	1	0	2.000	0.1	1	0	1.000	0.2

## MARKETING

The rules governing the marketing of seed within the United States are almost exclusively a matter of labelling. The slight differences depending on whether agricultural or vegetable seed is concerned. A distinction is made by requiring in the latter case between container

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Regulation, 7 CFR, 1977, § 201.69.

Ibid., § 201.72, a.b.

Ibid., § 201.73.

Ibid., § 201.76.

sizes and that percentage of germination be stated. There is a considerable degree of similarity between the rules governing seed sold in containers and those governing seed sold or transported in bulk or in large quantities, the chief difference consisting in the requirement, in the former case, of a label instead of the invoice or other records accompanying such seed 1/.

Agricultural seed or mixtures thereof (with a few exceptions such as those for lawn and turf purposes) may be transported in interstate commerce when the container bears a label giving the following information 2/:

1. Name of the kind or kind and variety for each component present in excess of five percent of the whole and the percentage by weight of each. The variety of the kind in question is among those listed in the rules and regulations 3/; otherwise, the words "variety not stated" must appear on the labelling. Hybrid seed must be stated as such, in any event;
2. Lot number or other identification;
3. Origin, where that information is mandatory (i.e. for alfalfa, red clover, white clover and field corn) 4/;
4. Percentage by weight of weed seed, including noxious-weed seeds;
5. Kinds of noxious-weed seeds, and the rate of occurrence of each (which must not exceed that allowed by the law of the receiving state);
6. Percentage by weight of agricultural seeds other than those included under (1);
7. Percentage by weight of inert matter;
8. Percentage of germination, exclusive of any head seed present; the calendar month and year in which the test to determine these percentages was completed. Not more than five calendar months must have elapsed between the last day of the month in which the test was completed and the date of transportation, except for seed in hermetically sealed containers, in which case the limit is placed at 24 months 5/;
9. Name and address of the person who transports or delivers for transport and of the person to whom the seed is sold or transported for resale. In the former case a code designation approved by the Secretary of Agriculture must be added;
10. The year and month beyond which an inoculant, if shown in the labelling, is no longer claimed to be effective;
11. A statement as to any treatment the seed has undergone, the substance used and whether this or any other substances are harmful to humans and other vertebrate animals, together with a description of the process used in such treatment 6/.

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1/ Regulations, 7 CFR, 1977, § 201.33.

2/ Federal Act, 7 USC, 1970, § 1571 a.

3/ Regulations, 7 CFR, 1977, § 201.10.

4/ Ibid., § 201.14.

5/ Ibid., 7 CFR, 1977, § 201.22 and 201.36 c; Federal Act, 7 USC, 1970, § 1571

6/ Ibid., § 201.31 a; Ibid., § 1571 i.

Vegetable seed in containers weighing one pound or less and having a germination capacity-equal to or greater than that decided by the Secretary of Agriculture in the Regulations 1/ must be labelled 2/ with:

1. The name of the kind or kind and variety, the percentage of each in the case of mixtures of varieties, and the designation as a hybrid where this is the case.
2. The name and address of the person who transports the seed and the person who purchases it, as with agricultural seed.
3. Terms descriptive of the treatment undergone by the seed where this is the case, as with agricultural seed.

Vegetable seed in containers weighing one pound or less and having a germination capacity inferior to that established by the Secretary, and vegetable seed in containers of more than one pound weight must be labelled with the following information 3/:

1. The name of each kind and variety of seed and, if two or more kinds or varieties are present, the percentage of each; also the designation as a hybrid where this is the case.
2. The name and address of the person who transports the seed and the person who purchases it, as with agricultural seed.
3. For each kind and variety of seed appearing in the label statement:
  - percentage of germination, exclusive of hard seed;
  - percentage of hard seed, when present;
  - the month and year in which the germination test was completed. Tests remain valid for the same periods as with agricultural seed, viz. 5 and 24 months 4/;
  - the words "Below Standard" where the seed germinates less than the standard last established by the Secretary of Agriculture.
4. With containers weighing one pound or less, the lot number or other lot identification.
5. As indication that the seeds have been treated, where this is the case.

In addition to the above-detailed general label, there is a special label for certified agricultural or vegetable seed sold in containers 5/. This is required to indicate the certifying agency, the reference number, the name of the variety, if certified as to variety, and the kind and class (registered or certified) of the seed. In the case of certified seed sold in bulk the invoice or accompanying document must identify the certifying agency, the crop kind, the variety (if certified as to variety) and the class of seed and give the identifying number.

In the matter of "Advertisement", this term is taken to cover all representations, other than those on the label, disseminated in any manner or by any means.

It is unlawful to disseminate or cause to be disseminated any false advertisement concerning seed by any means, including radio broadcasts 6/ or, again, to use words or terms that create a misleading impression as to the characteristics of the kind or variety of the seed 7/.

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1/ Ibid., § 201.31.

2/ Federal Act, 7 USC, 1970, §.1571 b.1.

3/ Ibid., § 1571, b.2 and 3.

4/ Regulations, 7 CFR, 1977, § 201.30 a.

5/ Regulations, 7 CFR, 1977, § 201.74.

6/ Ibid., § 1575.

7/ Regulations, 7 CFR, 1977, § 201.36 b.

## LAW ENFORCEMENT

The chief purpose of inspection and control is to secure truth in labelling. Accordingly, the provisions go to considerable length in the matter of tests and of inspection of the seed trade.

Thus, under the Act persons transporting or delivering for transportation in interstate commerce agricultural seeds must keep for three years a complete record of the origin, treatment, germination and purity of each lot; in the case of vegetable seeds they must keep for three years records of treatment, germination and variety. All such records may be inspected by the Secretary of Agriculture or his duly authorized agents 1/. The Secretary is also empowered to prescribe samplings, analyses, tests or examinations of seeds and tolerances as to percentages and rates of occurrence required by the Regulations 2/.

The Regulations further provide that, when authorized, qualified state officials may draw samples of, secure information and inspect records pertaining to, and otherwise inspect, seed 3/. Comprehensive rules are laid down governing the general procedure, and technical method of sampling (e.g. as regards lots and bags from which samples are to be taken, small containers, size of sample and the forwarding of samples) 4/, and purity analysis (manner of obtaining the sample, the weight of the working sample, weed seed, inert matter and special methods of analysis) 5/. Where germination tests are concerned, the rules deal with the number of seeds, retests, moisture, special procedures for certain families of plants, hard seeds, and dormant seeds 6/.

Special inspection is prescribed for certified seed where even the production stage is covered by the rules. One or more field inspections are to be made prior to harvesting at a time when genetic purity and identity can best be determined. A certification sample is to be drawn in a manner approved by the certifying agency from each cleaned lot of seed eligible for certification. Processors of certified seed must permit inspection by the certifying agency 7/.

## IMPORTS AND EXPORTS

No rules are laid down specific to exports of seed save to prohibit the dissemination of false information in foreign commerce in those commodities 8/.

Where imports are concerned, there is a partial derogation from the truth-in-labelling principle in that, while certain label statements are still required, minimum quality standards this time are imposed. To ensure compliance with these, imported seeds must be inspected prior to their release into commerce 9/. It is prohibited in particular to import seed whenever, for example, the lot contains ten percent or more of seed that has been adulterated or is otherwise unfit for seeding purposes, or if it has not been stained where it is required to be under the Act or, again, if the labelling is false or misleading in any respect or fails to state any treatment that may have been used 10/. Import requirements are also

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1/ Federal Act, 7 USC, 1970, g 1572.

2/ Ibid., § 1592-1593.

3/ Regulations, 7 CFR, 1977, § 201.37.

4/ Ibid., § 201.39 to 44.

5/ Regulations, 7 CFR, 1977, § 201.45 to 52.

6/ Ibid., § 201.53 to 58.

7/ Ibid., § 201.72 to 73.

8/ Federal Act, 7 USC, 1970, § 1575.

9/ Regulations, 7 CFR, 1977, § 201.38.

10/ Federal Act, 7 USC, 1970, § 1581.

prescribed, for certain kinds of seed, in terms of percentages of pure live seed 1/. Certain plant families, again, are considered weeds or noxious weeds and therefore subject to import limitations 2/. Seed that does not satisfy the requirements that have been prescribed may be admitted to cleaning, or its destruction may be ordered or, again, its reexport to the country of origin 3/.

## OFFENCES AND PENALTIES

Offences under the Act or the Regulations render the person concerned liable to two kinds of penalty. A civil suit is brought in the name of the United States in the case of violation of the rules and regulations made under the Act, leading to a fine of from 25 to 500 dollars. Gross negligences or culpable ignorance is a criminal offence and leads to a fine not exceeding 1000 dollars for the first such offence and 2000 dollars for each subsequent offence 4/.

Seed involved in any offence may be disposed of by the Court - by sale, by delivery to the owner against payment of Court costs and the execution and delivery of a bond to the effect that the seed will not be further disposed of in violation of the laws, or by its destruction 5/

Before action is taken against any person under the Act or the Regulations, the Secretary of Agriculture is required to notify the person presumed to have Violated these provisions and allow him to state his case. Court judgments issued pursuant to the Act are published for their exemplary value 6/.

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1/ Regulations, 7 CFR, 1977. § 201.102.

2/ Ibid., § 201.107 and 100.

3/ Ibid., § 201.230; Federal Act, 7 USC, 1970, § 1582.

4/ Federal Act, 7 USC, 1970, § 1596.

5/ Ibid., 8 1595.

6/ Ibid., 7 USC, 1970, § 1598 and 1604.

## URUGUAY

### CURRENT LAW AND REGULATIONS

Act No. 13.664 to prescribe rules governing the production, marketing, importation and exportation of seed. - 13 June 1968. - Diario Oficial No. 17.851, 25 June 1968, p. 631-A.

Decree No. 105/976 prescribing rules governing imports of seed by the Ministry of Agriculture and Fisheries. - 19 February 1976. - D.O. No. 19.713, 26 February 1976, p. 522-A.

Decree No. 342/977 prescribing rules governing the production and marketing of commercial wheat seed "progeny of certified seed". - 15 June 1977. - D.O. No. 20.034, 24 June 1977. p. 573-A.

The basic enactments on the subject consist of Act No. 13.664 of 1968 and Decree No. 342/977 of 1977 which, as stated, lay down rules governing what is referred to as commercial wheat seed "progeny of certified seed". As yet there are no rules referring to other groups of plants.

### OBJECT AND SCOPE

The 1968 Act confines itself to stating its object, namely, to regulate the production, certification, marketing, importation and exportation of seed 1/.

The Act is wide in scope. As may be seen from the definition of seed (discussed in the next section) there is no express limitation of any kind.

### BASIC CONCEPTS AND TERMINOLOGY

The 1968 Act defines many terms and expressions, viz., seed, weed seed, prohibited weed, objectionable weeds, label, publicity, kind, variety, lot, hybrid, purity, purity analyses, pure seed, inert matter, seed of other plants, percentage germination, percentage hard seed, percentage total germination, treated seed, withdrawal from sale, official recognition, commercial seed, mixture, merchant, consumer, processing, certification process, seed certification, nursery, breeding nursery 2/.

"Seed" is defined as any botanical structure used for the purpose of sowing or other form of propagation, as commonly understood in Uruguay.

There are two main groupings of seed: Commercial Seed and Certified Seed. The former refers to any seed offered for sale that meets the requirements of the Act but not those for certified seed.

Certified seed is seed that has been subjected to the certification process as prescribed by the official rules. Where the production of certified seed is concerned the following classes or categories are contemplated:

- parental seed (semilla madre): seed under the direct control of the plant breeder originating or sponsoring it which provides the source material for foundation seed and subsequent multiplications;
- foundation seed (semilla fundación): seed handled in such a way that it maintains its specific genetic identity and purity. It provides the source material for "certified" seed, whether directly or via "registered" seed;

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1/ Act No. 13.664, 1968, art. 1.

2/ Ibid., art. 2.

- registered seed; the source material of "foundation" seed. It is used for the production of certified seed;
- certified seed; the source material of registered or foundation seed handled in such a way as to maintain its specific genetic identity and purity.

Mention should also be made of the intermediate concept of commercial wheat seed "progeny of certified seed" (semilla comercial hija de certificada), which comes under the provisions of Decree No. 342 of 1977. Under its terms by "progeny of certified seed commercial wheat seed" is to "be understood the seed obtained from crops grown from seed that has been certified by the Alberto Boegner Agricultural Research Centre, and has purity and germination levels conforming to those prescribed by the decree. It is this seed that it is intended to use in order to produce as rapidly as possible for large-scale growing the novel varieties evolved by the Alberto Boegner Institute or imported.

## ROLE OF THE GOVERNMENT AUTHORITIES

The 1968 Act vests in the Ministry of Agriculture responsibility for coordinating with the agricultural seed producer cooperatives, and with the national association of these, all programmes for the production, distribution and marketing of seed 1/.

As regards certification in particular, this is the concern of the Research and Extension Department of the Ministry, acting through its Research Centres 2/. The Act appoints a Seed Certification Advisory Committee to advise the Research Centres before the latter issue resolutions on matters coming within their purview 3/.

The Research Centres have the following among their terms of reference:

- to prescribe general and special standards with which seed to be certified must comply, and to determine those species and varieties that are to be entered in the appropriate registers;
- to maintain the parent seed whenever varieties are evolved or introduced by these centres and to produce or cause to be produced foundation seed and registered seed;
- to inspect and approve stocks of parent seed and foundation seed for any varieties evolved or introduced by the breeder nurseries or by private persons;
- to administer and supervise all certification process functions 4/.

In Decree No. 342 of 1977, the Ministry has changed its name to Ministry of Agriculture and Fisheries.

## QUALITY CONTROL

Act and Regulations both assign the utmost importance to certification, the other aspects of quality control receiving less extensive treatment.

As a basic principle of control, it is laid down that all seed sold or offered for sale or transported within the country must mandatorily be described as either certified seed or commercial seed 5/. The significance of this rule lies in the fact that both certified and commercial seed have to undergo several tests, the results of which must be stated in the labelling. The difference between these two classes is that with certified seed the test results must meet higher standards and the production process officially inspected as prescribed by

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1/ Act No. 13.664 of 1968, art. 7.

2/ Ibid., art. 3.

3/ Ibid., arts. 5 and 6.

4/ Ibid., art. 9.

5/ Ibid., art. 10.

the regulations as these come to be issued. Significantly, the entry into force of the requirements prescribed by the Act may be deferred by the Ministry, in the case of commercial seed, in the light of the practical feasibility of the requirements being met at all 1/.

The importance attached to certification in both the Act and the Regulations explains why there is only one kind of Register relating to seed quality, namely the National Register of Species and Varieties Suitable for Certification. Only those species and varieties entered in this Register are eligible for certification 2/.

## PRODUCTION

The rules as they stand at present are of a general character, being embodied in a basic Act. Regulations exist only for certified wheat seed. These are rules that apply to certified seed or progeny of certified seed only. There are no production rules for commercial seed.

### Producers

The Research centres may contract out the production of registered or certified seed to private establishments 3/.

The Act lays down extensive rules governing producers where wheat seed progeny of certified seed is concerned 4/.

### Rules governing production processes and processed seed

The basic principle is affirmed that in the certification process the technical specification for the respective crops must be complied with as laid down by the regulations or issued by the Research Centres on such matters as soil conditions, seeding times, minimum equipment for cultivation tasks, availability of water, isolation, density of sowing, production of parental material, equipment for pest control and, in general, all matters having to do with obtaining high quality seed 5/.

The only Regulations to be issued so far (for wheat progeny of certified seed) specify purity standards for seed supplied by the producer that has undergone no mechanical treatment 6/ and for seed that has undergone such treatment - i.e. seed prepared for sale by the establishment authorized by the Ministry for this purpose 7/.

Examples follow of quality requirements applying to seed so treated:

- (a) mechanical purity: pure seed (minimum), 97 percent; seed of other crops (maximum), 10 per kg; prohibited weed seed, nil; objectionable weed seed (maximum), 2 per kg; non-objectionable weed seed (maximum), 10 per kg; inert matter (maximum) 3 percent;
- (b) germination (minimum), 85 percent;
- (c) specific weight (minimum), 74 kg per hl;
- (d) moisture content (maximum), 14 percent;
- (e) pitted seed (maximum), 2 percent.

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1/ Act No. 13.664, 1968, art. 30.

2/ Ibid., art. 4.a.

3/ Ibid., art. 9.

4/ Decree No. 342/977 of 1977, arts. 4-5.

5/ Act No. 13.664, 1968, art. 8.

6/ Decree No. 342/977 of 1977, art. 6.

7/ Ibid., art. 11.

## MARKETING

### General roles

Any person intending to engage in importing, exporting, processing, storing, distributing or selling seed must be entered in the Register of Seed Merchants kept by the Ministry as prescribed 1/.

Only seed which, being commercial or certified seed, and carries the appropriate labelling may be placed on sale. It is prohibited to sell or transport seed in bulk 2/. Seed merchants are responsible for all statements appearing on labels 3/. If the purchaser is in doubt as to any of the characteristics of the seed he may ask the Ministry officially to carry out the relevant. Where the seed fails to meet requirements, the vendor is obliged to reimburse the purchaser the price of the seed and tests costs, irrespective of any other penalties that may apply under the Act 4/.

In the case of wheat seed progeny of certified seed, the Ministry may undertake to sell seed supplied by the producers. The Ministry will also enter into distribution agreements with seed handling agencies 5/.

### Packaging; sealing; labelling

Packages of seed, whether commercial or certified, must bear a label, in Spanish, in a legible and indelible form, and placed as prescribed and containing the statutory statements, as well as 6/:

- (a) name and address of the person labelling or selling the seed;
- (b) species and variety, where identification is possible;
- (c) origin;
- (d) net weight;
- (e) percentage pure seed;
- (f) percentage germination;
- (g) date of testing;
- (h) percentage by weight weed seed;
- (i) percentage seed of other crops.

The regulations governing wheat seed progeny of certified seed prescribe, inter alia, the following rules. Each lot of seed must be stored separately and must carry an indication of the results of the purity and germination tests that it has undergone. The sacks must bear printed indelibly on them the following: the words "Ministry of Agriculture and Fisheries; the name of the seed producing firm or contractor; the words "commercial wheat seed"; the net weight and the year of harvesting. Packages must in addition carry either sown or otherwise adhering to it a yellow label with the information printed on it in brown repeating the specifications of the contents together with a statement of the minimum percentage germination and purity as prescribed by Decree No. 342 of 1977. Further mandatory data for this

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1/ Act No. 13.664, 1968, art. 28.

2/ Ibid., art. 17.1.

3/ Ibid., art. 13.

4/ Ibid., art. 16.

5/ Ibid., arts. 15-16.

6/ Ibid., arts. 10-11.

label are the month and year of the test and, if appropriate, the word "seed treated with poison". Packages, moreover, must be sealed in such a way as to ensure their inviolability 1/.

#### Extension and publicity

It is prohibited to expose for sale or transport seed where the label or publicity is in any way misleading as to the specifications and condition of the contents, or to add to the package, whether in the label or elsewhere, any statements not expressly authorized by the rules 2/.

An entire division of the 1968 Act is given over to the question of credit for farmers 3/ The Ministry may by agreement with the Central Bank make available the benefits provided by law in respect of all crop seed. Beneficiaries are required within a year at the latest to pay back the principal plus an amount set each year by the Government which, however, may not exceed 5 percent inclusive of interest, commission and other charges. The Government is also empowered to prescribe annually conditions under which loans may be written off or repayment made wholly or partly in kind. Priority is given to certified seed in the supplies made available to farmers. The Ministry determines the price of certified seed and commercial seed involved in the loan operations as well as the proportions of either that farmers are to receive.

### LAW ENFORCEMENT

The Ministry is responsible for the control of seed production and marketing, and is accordingly empowered to:

- (a) take samples of, inspect, and conduct analyses and other tests on, any seed transported, sold or offered or exposed for sale, at any time or place in order to ascertain whether such seed conforms to the requirements of the law;
- (b) have access to premises where certified or commercial seed is to be found;
- (c) seize or prohibit the sale of any seed not complying with requirements;
- (d) demand the operational support of any public agency;
- (e) demand the help of the police whenever necessary 4/.

The Ministry is to prescribe rules for sample taking for such analyses as the Act requires or the Ministry itself may determine 5/.

In the regulations governing wheat seed progeny or certified seed will be found a concrete example of the application of the Act. Thus, during the production process a person holding a degree in agriculture/ nominated by the seed authority and approved by the Ministry, inspects the growing areas at least prior to sowing, and without this implying that he may not have access to the crops at all times, will make a second mandatory inspection to approve or disqualify the crop. Before seed harvesting commences the grower must notify the local authority where the crop is registered 6/. The seed producing agencies are also subject to Ministry inspection at any time during the growing season 7/.

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1/ Decree No. 342/977, 1977, arts. 13 and 15.

2/ Act No. 13.664, 1968, art. 17.4.5.

3/ Ibid., Division III, arts. 32-34

4/ Ibid., art. 14.

5/ Ibid., art. 29.

6/ Decree No. 342/977, 1977, art. 5.

7/ Ibid., arts. 10, 11, 16.

## IMPORTS AND EXPORTS

As pointed out in the section on marketing, there is a Register of Seed Merchants in which must be entered any person engaging in the importation, exportation, processing, storage, distribution and sale of seed 1/.

Both imports and exports are subject to Ministry control.

In order to import seed, the authorization of the Ministry is required. This will be issued through the technical bodies determined by the regulations. Imported seed must be accompanied by a certificate of provenance and a phytosanitary certificate, and have the statutory labelling. No seed may be withdrawn from bond before it has been tested by the appropriate laboratory. The Government is empowered to promote imports by means of customs exemption and subsidies chargeable to budget chapters as authorized by the Act 2/.

It is prohibited to export seed unless the country's supplies will be unaffected thereby 3/.

## OFFENCES AND PENALTIES

It is expressly prohibited, inter alia, to sell seed where the germination test has been carried out more than twelve months previously or the labelling is incomplete or misleading, to prevent or hinder in any way inspectors in the performance of their task, to use in any labelling or publicity the term "-type" in connection with the name of the seed and to tamper in any way with seed lots which it has been prohibited to put on sale 4/. Contraventions of the Act are punished with a fine of from 500 to 200.000 pesos.

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1/ Act No. 13.664, 1968, art. 28.

2/ Ibid., arts. 19-26.

3/ Ibid., art. 27.

4/ Ibid., arts. 17-18.

## YUGOSLAVIA

### CURRENT LAWS AND REGULATIONS

Yugoslav Quality Rules and Standards Act. - 28 December 1973. - Sluabeni List No. 2, 10 January 1974, Text No. 18, p. 37.

Regulations governing the quality standards, packaging, sealing and labelling of reproduction material of cultivated plants. - 23 July 1975. - S.L. No. 45, 12 September 1975, Text No. 653, p. 1237.

Regulations governing the quality standards, packaging, sealing and labelling of seed of cultivated plants. - 23 July 1975. - S.L. No. 55, 21 November 1975, Text No. 748, p. 1486 1/.

Regulations concerning methods and procedures for the recognition of novel varieties of seeds and reproduction material of agricultural plants, and concerning the approval for cultivation purposes of such varieties bred abroad. - 1 August 1975. - S.L. No. 40, 15 August 1975, Text No. 630, p. 1154.

Subsequent to the publication, in 1965 and 1966, of the basic acts on seed and plant reproduction material 2/, the year 1973 saw the introduction of the Commodity Rules and Quality Standards Act, which is the point of departure for the new rules governing seed and planting material. The three sets of Regulations cited above provide, in effect, for the enforcement of the 1973 Act.

### OBJECT AND SCOPE

The object of these enactments is not explicitly stated. Given the trend of recent legislation, the bulk of the provisions are in the nature of quality standards and the operations entailed in packaging and labelling. They affect planting material and seed. As regards the former, the only items covered are those for fruit trees, vines and hops 3/. As regards seed, the schedule to the seed Regulations lists 107 plant species with the quality standards applying to each 4/.

### BASIC CONCEPTS AND TERMINOLOGY

The tables relative to seed quality standards contemplate several kinds of seed 5/.

### ROLE OF THE GOVERNMENT AUTHORITIES

The provisions governing the quality of seed and planting material of agricultural and forest species are prescribed by the Federal Secretary for Agriculture with the consent of the Federal Secretary for the Treasury. The Federal Secretary for Agriculture prescribes further rules governing recognition, the commencement of the seed production process, conditions governing and methods of, analysis of seed and planting material under the aspects of their biological, economic and ecological characteristics 6/.

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1/ A summary of these Regulations was published in FAO Food and Agricultural Legislation. Vol. XXVI, No. 1 p. 70.

2/ The Seeds Act. - 15 March 1965. - S.L. No. 13, 31 March 1965, Text No. 261, p. 514. Plant Reproduction Material Act. - 14 October 1966. - S.L. No. 70, 19 October 1966, Text No. 477, p. 813.

3/ Plant Reproduction Material Regulations, 1975, reg. 4. The schedules specify the various kinds of planting material.

4/ Seed Regulations, 1975, reg. 1 and Schedule.

5/ Seed Regulations, 1975, Schedule. Classes I and II are contemplated.

6/ Act, 1973, sec. 27.

## QUALITY CONTROL

The Quality Standards Act states this principles: "determination shall be made, by the establishment of mandatory Yugoslav standards or by orders relative to commodities or by decision of the Federal Secretary for Agriculture, as to which products shall comply with rules governing packaging, marking and labelling, as a condition of their placing on sale 1/. The 1975 Regulations apply this principle.

The recognition of novel or imported varieties is provided for in a separate set of Regulations 2/. These prescribe, *inter alia*, the procedure to be followed in order to obtain recognition and approval, the information to be furnished, tests and, where appropriate, field inspections, as well as the criteria for determining the fees payable for tests. Applications for recognition or approval are to be filed with the Central Committee for Agriculture 3/. The latter appoints a technical committee to examine applications and to send up the relevant recommendations 4/. Novel varieties and imported varieties approved are duly entered in the Register 5/.

## PRODUCTION

The schedules to the Regulations prescribe quality standards for planting material and seed 6/. For seed there is given in the first place a table listing 107 plant species and dealing in a twelve-coloumn arrangement with the following items: serial number; Latin name and common name; maximum weight of batch (in kg); weight of average sample (in grams); percentage pure seed, according to class (class I or II); percentage seed of other varieties or adventitiously present; germination capacity according to class (class I or II); maximum moisture content (percent); special conditions applying to certain species 7/.

The same Regulations prescribe further quality standars, by giving: a table of fifteen pests and diseases of which no sign of infestation or presence in any of the fourteen species listed is tolerated; a table of maximum percentage infestation for 27 plant species beyond which pesticide treatment is required; detailed prescriptions regarding maximum permitted levels of infestation for potatoes 8/.

## MARKETING

### General rules

The principle described under Quality Control holds - to the effect that the marketing of items listed for quality control purposes is also conditional upon conformity with rules governing packaging, marking and labelling 9/. Planting material and seeds come under this principle by virtue of the regulations so far published 10/.

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1/ Act, 1973, secs. 55 and 56.

2/ Regulations, Inspection, 1975.

3/ *Ibid.*, reg. 2.

4/ *Ibid.*, regs. 5 to 7.

5/ *Ibid.*, regs. 15 and 16.

6/ Plant Reproduction Material Regulations, 1975, reg. 1; Seed Regulations, 1975, reg. 1. Both regulations refer to the relevant Schedule.

7/ Seed Regulations 1975, Sohedule.

8/ *Ibid.*, Schedule.

9/ Act, 1973, secs. 55 and 56.

10/ Plant Reproduction Material Regulations, 1975, reg. 1; Seed Regulations, 1975, reg. 1.

Packaging; sealing; labelling

Detailed rules are given in these matters for both planting material and seed.

Thus, for planting material, the following apply:

- the materials used for packaging must be suitable to ensure protection during transport and handling against atmospheric agents and, except for strawberries and hops, planting material must be put up in bunches of not more than 200, unless the purchaser requests larger units. Hops must come in packs and strawberries in barrels or crates 1/;
- the merchandise must be labelled in such a way that nothing can be taken out of the package without removing the label 2/;
- the label must contain the following information:
  - name and address of the enterprise packing and placing these items on sale,
  - species and variety,
  - age of contents,
  - species of the rootstock used,
  - number of units contained in package,
  - serial number of the certificate accompanying the despatch note,
  - number and date of certificate 3/.

For seed, the following rules apply, inter alia:

- a distinction is made between seed - i.e. in seed form and put up in sacks, bags, and crates conforming to the prescribed specifications - and tubers, bulbs and other part of plants commonly referred to as seed - for which baskets, sacks and similar packaging materials must be used 4/;
- seed lots must be sold in standard numbered packs, in regulation weights 5/;
- there must be a closure system guaranteeing the inviolability of the contents and permitting the identification of the packer. The system may consist of a mechanically stitched steam, pressure adhesive or heat sealing 6/;
- labelling must follow one or other of the five models given in the schedule. Three of these models must be followed in compiling the despatch note (1. seed quality; 2. tuber or bulb quality; 3. Quality of the seed of species and varieties contained in the mixture); and two must be attached to the package (4. seed quality; 5. tuber or bulb quality) 7/.

The required labels vary somewhat from one model to another depending on whether agricultural seed, tubers, bulbs or mixtures are concerned 8/. The label must also contain references to any treatment with plant protection chemicals or any "technical preparation" 9/. Rules are laid down governing label placement, which, again, will vary according to the type of closure and the net weight of the package 10/.

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1/ Plant Reproduction Material Regulations, 1975, regs. 2 to 4.

2/ Ibid., reg. 5.

3/ Plant Reproduction Material Regulations, 1975, reg. 6.

4/ Seed Regulations, 1975, regs. 2 and 3.

5/ Ibid., reg. 4 and Schedule.

6/ Ibid., reg. 6.

7/ Ibid., reg. 4 and Schedule.

8/ Ibid., regs. 7 to 9.

9/ Ibid., regs. 10 to 11.

10/ Ibid., regs. 12 to 13.

## LAW ENFORCEMENT

Seventeen regulations are given over to prescribing procedures for the taking and presentation of samples 1/. The following are dealt with, *inter alia*:

- Definitions are given of "initial sample" (referring to all amounts of seed taken at the same time and in the same manner from the hatch) and "average sample" (resulting from the division of the initial sample into three parts) 2/;
- procedure for drawing and packing samples are indicated 3/;
- statutory statements are prescribed for labelling the average sample 4/;
- test methods are prescribed 5/.

## IMPORTS AND EXPORTS

Seed intended for export may be packaged in accordance with procedures agreed by contract between the exporter and the foreign purchaser 6/.

Imported seed is subject to the same rules as Yugoslav seed where packaging, sealing and labelling are concerned 7/.

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1/ Seed Regulations, 1975, regs. 16 to 32.

2/ *Ibid.*, regs. 16 to 19.

3/ *Ibid.*, regs. 22 to 28.

4/ *Ibid.*, reg. 5.

5/ *Ibid.*, reg. 15.

## ZAMBIA

### CURRENT LAWS AND REGULATIONS

The Agriculture (Seeds) Act. - Chapter 352 of the Laws of Zambia (Vol. VI).

Statutory Instrument No. 68 of 1975: The Agriculture (Seeds) (General) Regulations, 1975. -8 April 1975. - Supplement to Government Gazette No. 53, 18 April 1975, p. 239 1/. Zambian seed legislation was also the subject of two articles appearing in 1967 and 1971, respectively 2/.

### OBJECT AND SCOPE

The Act contains no express statement of purpose beyond that of providing generally for the regulation and control of the seed sector.

The scope encompasses seeds of those species or varieties (listed in the Schedules to the Regulations under the Act) of agricultural and horticultural crops, but not flower seeds 3/.

### BASIC CONCEPTS AND TERMINOLOGY

Of the forty terms and expressions defined in the Act and the Regulations the salient one is "seed", which is to be taken to mean the part of any plant, customarily referred to as seed, intended for planting, and includes seed potatoes 4/.

A distinction is made between prescribed seed and certified seed. The former are any seed listed as such in the appropriate Schedule to the Regulations, which must conform to the minimum standards laid down therefor. Certified seed, or Zambia certified seed, refers to seed which is required to satisfy stricter conditions than those for prescribed seed and is certified pursuant to the Regulations 5/.

### ROLE OF THE GOVERNMENT AUTHORITIES

A Controller of seeds is responsible, under the authority of the Minister, for the administration of the Act and the Regulations. The Controller is the Permanent Secretary, Ministry of Rural Development 6/.

### QUALITY CONTROL

Since the legislation refers only to seed listed in the Schedule, all rules governing production, marketing and control are enforced only in respect of prescribed seed or certified seed, as the case may be.

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1/ A summary of Act No. 68 of 1975 was published in PAO Food and Agricultural Legislation, Vol. XXVI, No. 1, p. 77.

2/ J.C. Hoyle, "Seed Legislation in Zambia", Proc. Int. Seed Test. Ass. Vol. 32 (1967) No. 2, dealing with Act as it was before it had been passed by Parliament, and D.H. Gray "Seed Legislation and Improvements in Zambia", *Ibid.*, Vol. 36 (1971), No. 1.

3/ Cf. First and fourth Schedules to the Regulations (S.I. No. 68 of 1975), and J.C. Hoyle, art. cit., p. 517.

4/ Act No. 14, 1967, sec. 2.

5/ Act No. 14, 1967, sec. 2.

6/ Ibid., sec. 3, and Regulations, 1975, sec. 2. A cardinal element in the entire system is constituted by the Government seed-testing stations, chief among them the Mount Makulu Research Station, whose staff performs the tasks necessary before a seed may be certified and do work on breeding seeds varieties. D.H. Gray, art. cit., p. 39.

Zambian legislation seeks to guarantee the farmer minimum standards of quality by laying down minimum requirements for certain crops habitually grown in the country. Seed of these crops may not be sold if it does not comply with the prescribed technical requirements. The various seeds in question are listed in the First Schedule (Prescribed Seeds) 1/.

For most of these prescribed seeds there are, in addition, standards for certification which are more exacting from the cultivation standpoint, notably as regards purity and germination percentage, and call for inspection of the production processes. The seed in question appears among the Zambia Certified Seed 2/.

Seed which is not specified seed may still be grown and sold without restriction while certified seed may be produced and sold only if it meets the minimum requirements, and certified seed only if it meets standards 3/.

## PRODUCTION

### Producers

Any person desiring to produce certified seed is required to register with the Controller of seeds. Applications for registration are made on the prescribed form 4/ and are accompanied by the payment of a fee on an approved hectare basis. The form calls for information concerning the variety or strain, the proposed hectare 5/, previous crops grown in the same field during the last four years, proposed date of planting. The Controller of seed if he has good reason to do so may refuse to register an applicant 6/.

### Requirements in respect of production processes and processed seeds

The Regulations 7/ list for 50 types of certified seed the following requirements: minimum purity and germination figures, pure live seed content, isolation distance from other crops, parent seed (this must be of known, approved derivation - certified seed or approved parent seed), minimum inspections (field, and after harvest), and number of undesirable plants per 10 m<sup>2</sup>.

Three cereal crops may be cited as examples:

Cereals	Minimum		Isolation (metres)	Parent seed	Minimum Inspections	Minimum crop standards (per cent)
	Purity	Germination				
Barley	99	85	5	Certified seed	2 field 1 after harvest	- Not more than 0.1 t
Rice	98	80	5	Certified seed	2 field 1 after harvest	- Not more than 0.1 - Not more than 1 - Not more than 2
Wheat	99	85	5	Certified Seed	2 field 1 after harvest	- Not more than 0.1 - Not more than 1

1/ Regulations, 1975, First Schedule.

2/ Regulations, 1975, Fourth Schedule.

3/ Cf. J.C. Hoyle, art. cit., p. 517.

4/ Regulations, 1975, Fourth Schedule, form 9.

5/ Ibid., reg. 45.

6/ Act No. 14, 1967, sec. 54.

7/ Regulations, 1975, Fourth Schedule.

In the case of prescribed seed the requirements concern only minimum purity and germination figures. These are, of course, less exacting than in the case of certified seed 1/. Thus, the requirements for the seed of the three crops just mentioned are (percent):

<u>Cereal</u>	<u>Purity</u>	<u>Germination</u>
Barley	98	80
Rice	97	75
Wheat	98	80

In order to achieve these minimum standards recourse may be had to seed cleaners (businesses or individuals), who are required to register in that capacity 2/.

## MARKETING

### General

Under the section on quality control, it was seen that non-prescribed seed might be sold freely. Prescribed seed and certified seed, however, may be sold only if they conform to certain requirements and only by licensed seed sellers.

Any person who wishes to engage in the marketing of seed, prescribed or otherwise, must make an application to the Controller of seeds for a seed seller's licence on the official form and on payment of a fee 3/. The Controller of seeds may refuse to issue a licence if he is satisfied that the applicant is unsuitable. The licence is valid for not more than three years, after which a fresh application must be made 4/. The Controller of seeds may limit the validity of the licence by specifying where the licence may be exercised or whether such exercise shall be restricted to sale, by wholesale only or by retail only 5/. The licence may be revoked for specified reasons 6/.

### Packaging; sealiag; labelling

The rules governing these matters differ according to whether prescribed seed or certified seed are involved, a further distinction being made between packaged and bulk seed.

In the case of prescribed seed in sealed containers, the seller must have printed or stamped on each container or label attached to or enclosed in it and legible without opening it the words "Government Tested Seed" and the date of testing 7/. If prescribed seed is being sold in bulk, the seller is required to furnish to the buyer a written statement containing the name and address of the Government seed testing station where the test was made, the date of the test and a declaration by the seller that the bulk quantity being sold was taken from the lot from which the sample tested was taken, together with such other particulars as may be prescribed 8/.

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1/ Regulations, 1975, Fifth Schedule.

2/ Act No. 14 of 1967, Sections 3 to 16; and Regulations, 1975, reg. 4, and form 1 of the Sixth Schedule.

3/ Act No. 14 of 1967, Section 30 and Regulations, 1975, reg. 34 and form 5 of the Sixth Schedule.

4/ Regulations, 1975, reg. 34.4.

5/ Act No. 14 of 1967, sec. 29.

6/ Regulations, 1975, reg. 32.

7/ Act No. 14 of 1967, sec. 37.1.a.

8/ Ibid., sec. 37.1.b.

In the case of certified seed sold in sealed containers, the same requirements as those for prescribed seed so sold apply, save that the printed or otherwise reproduced wording is "Zambia Certified Seed" or "imported certified seed" as appropriate 1/. The sale of seed in bulk quantities may proceed only if the seller is in possession of the prescribed certificate and furnish to the purchaser the certificate or a copy of it 2/.

Failure to comply with the rules governing packaging and labelling for prescribed seed and for certified seed sold in bulk does affect the validity of a contract or the right to enforce 3/. Only in the case of sale of certified seed sold in sealed containers does compliance with the rules governing packaging and sealing constitute an essential element of the contract.

Of major importance in labelling is the indication of the date of testing, which must not have taken place more than twelve months previously. Should a longer period have elapsed, the seed must be retested by the official seed-testing laboratory before it may be offered for sale 4/.

## LAW ENFORCEMENT

Detailed rules are given in respect of seed testing, official seed testing stations, official seed testers, obtaining samples and seeds inspectors.

Testing is done only at the Government seed testing stations, and by Government appointed testers. The Controller of seeds is required to keep a register of both official stations and official seed testers 5/.

Inspectors of seeds are appointed by the Minister. They are empowered to take samples of seed, and at all reasonable times enter land, buildings, premises or plant and ascertain compliance with the Act, seize machinery or equipment and seed in specified cases. It is an offence to obstruct or impede an inspector in the exercise of these powers 6/.

## IMPORTS AND EXPORTS

The Minister may regulate the importation of seed. Seed so regulated is referred to as restricted seed or seed of any variety or class, including prescribed seed 7/, the importation of which is restricted, limited, subject to condition or prohibited 8/. The Regulations list crops so restricted where for the importation of the seed a licence issued by the Minister is required, unless the countries of provenance are expressly excepted from this rule. The crops in question are 39 in number and include barley, cocoa, coffee, cotton, maize, rice, tobacco, tea, wheat and sugar, as well as eight forest tree species 9/.

The Controller of seeds is required to keep a Register of Seed Importers. From an administrative standpoint this register is governed by rules similar to those applying to the Register of Seed Cleaners 10/.

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1/ Act No. 14 of 1967, sec. 63.

2/ Ibid., sec 65.

3/ Ibid., sec. 37.3; and Regulations, 1975, reg. 65.2.

4/ Ibid., reg. 34.6.

5/ Act No. 14 of 1967, secs. 17 to 20; and Regulations, 1975, reg. 5.

6/ Act No. 14 of 1967, secs. 23 to 27.

7/ Ibid., sec. 39.2.

8/ Ibid., sec. 39.

9/ Regulations, 1975, regs. 40 and 41.

10/ Act No. 14 of 1967, sees. 3 to 16.

It is prohibited for any person not registered as a seed importer to import prescribed seed into Zambia 1/. Any seed imported must conform to the purity and germination requirements applyign to Zambia prescribed seed 2/. Once any prescribed seed is imported the importer is required within 30 days to forward a sample, taken in the prescribed manner, to the Government Testing station 3/.

For imports of seed certified under the laws of another country, the requirement is, as for all prescribed seed, that the importer be registered. The latter must, in addition, apply to the Minister for the seed to be certified as certified imported seed. The Minister may grant the application provided the seed has been imported into Zambia by the applicant, has been officially tested within 30 days of the seed being consigned to the importer, has been declared to be certified seed under the laws of the country of origin and is accompanied by a document to the effect that the Controller of seeds is prepared to accept the seed as certified seed 4/.

The Minister may also grant certification if he is satisfied that the seed has been produced under conditions and conform to standards equal to, or higher than, those laid down for Zambia certified seed 5/.

## OFFENCES AND PENALTIES

It is prohibited inter alia to sell prescribed seed if the seller is not in possession of seed seller's licence, to sell prescribed seed that has not been tested or does not conform to other requirements, or under a description other than the varietal name or to tamper with samples or documents 6/, Unless other penalties are expressly provided for, offences are punished with a fine not exceeding 20 Kwachas or with a term of imprisonment of up to three months or with both such fine and imprisonment. Second or subsequent offences are punished with a fine of up to 50 Kwachas or imprisonment for up to six months or to both such fine and imprisonment 7/.

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1/ Act No. 14 of 1967, sec. 42.

2/ Regulations, 1975, reg. 40.

3/ Act No. 14 of 1967, sec. 44.

4/ Ibid., seo. 62.1.a.

5/ Act No. 14 of 1967, sec. 62.1.b.

6/ Ibid., secs. 67 to 69.

7/ Act No. 14 of 1967, sec. 83.



## ANNEX

### Selected basis enactments of the European Economic Community on seed 1/

Four Council Directives Nos. 66/400/EEC to 66/403/EEC on the marketing of, respectively: beet seed; fodder plant seed; cereal seed; potato planting material. - 14 June 1966. - Journal Officiel des Communautés européennes 2/, No. L. 125, 11 July 1966, pp. 2290, 2298, 2309 and 2320, respectively.

Council Directive No. 68/193/EEC on the marketing of vine vegetative multiplication material. - 9 April 1968. - J.O.C.E. No. L 93, 17 April 1968, p. 15.

Council Directive No. 69/208/EEC on the marketing of the seed of oil and fibre plants. - 30 June 1969. - J.O.C.E. No. 169, 10 July 1969, p. 3.

Council Directive No. 70/457/EEC relative to the Common Catalogue of Varieties of Species of Agricultural Plants. - 29 September 1970. - J.O.C.E. No. L 225, 12 October 1970, p. 1.

Council Directive No. 70/458/EEC on the marketing of vegetable seed. - 29 September 1970. - J.O.C.E. No. L. 225, 12 October 1970, p. 7.

Regulation (EEC) No. 2358/71 establishing the common market organization for seed. - 26 October 1971. - J.O.C.E. No. L 246, 5 November 1971, p. 1.

Council Regulation (EEC) No. 1674/72 laying down general rules for the granting and financing of aid in the seed sector. - 2 August 1972. - J.O.C.E. No. L. 177, 4 August 1972, p. 1.

Two Council Decisions Nos. 73/83/EEC and 73/84/EEC on the equivalence, respectively, of field inspections carried out on seed producing crops in Denmark, Ireland and the United Kingdom, and of seed produced in those countries. - 26 March 1973. - O.J.E.C. No. L 106, 20 April 1973, pp. 9 and 12.

Second Council Decisions Nos. 73/86/EEC and 73/87/EEC relative to the equivalence respectively of inspections carried out on standing crops for the production of seed in third countries, and of seed produced in third countries. - 26 March 1973. - O.J.E.C. No. L 106, 20 April 1973, pp. 18 and 21.

Commission Decision No. 74/71/EEC concerning the Advisory Committee on Seeds. - 9 January 1974. - O.J.E.C. No. L 52, 23 February 1974, p. 13.

Third Council Decision (74/348/EEC) on the equivalence of field inspections carried out in third countries on seed-producing crops. 27 June 1974. - O.J.E.C. No. L 191, 15 July 1974, pp. 11 and 17.

Fourth Council Decision on the equivalence of inspections carried out in third countries on seed-producing crops. - 24 June 1975. - O.J.E.C. No. L 183, 11 July 1975, p. 17.

Fifth Council Decision (76/535/EEC) on the equivalence of seed produced in third countries. - 17 May 1976. - O.J.E.C. No. L 162, 23 June 1976, pp. 1 and 10.

Council Directive No. 78/692/EEC amending Directives Nos. 66/401/EEC, 66/400/EEC, 66/402/EEC, 66/403/EEC, 68/193/EEC and 70/756/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, material for the vegetative propagation of the vine, seed of oil and fibre plants and vegetable seed. - 25 July 1978. - O.J.E.C. No. L 236, 26 August 1978, p. 13.

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1/ For brevity amendments to the enactments here cited have in most cases been omitted.

2/ Ed. Note: Publication of the Official Journal of the European Community commenced in 1973. Prior to that date are given (a) unofficial translation, (b) citation of the French version of the Journal.