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# Plant Propagation and Plant Variety Rights Act<sup>1</sup>

Passed 08.12.2005

RT I 2005, 70, 540

Entry into force 01.01.2006, clause 65 (1) 3) on 01.07.2006

Amended by the following acts

Passed	Published	Entry into force
01.06.2006	RT I 2006, 28, 211	01.07.2006
11.01.2007	RT I 2007, 6, 32	01.02.2007
15.02.2007	RT I 2007, 24, 127	01.01.2008
13.12.2007	RT I 2007, 70, 428	01.01.2008
21.05.2008	RT I 2008, 23, 150	01.07.2008
18.12.2008	RT I 2009, 3, 15	01.02.2009
10.06.2009	RT I 2009, 34, 224	01.01.2010
16.09.2009	RT I 2009, 48, 321	23.10.2009
22.04.2010	RT I 2010, 22, 108	01.01.2011, will enter into force on the date specified in the decision of the Council of the European Union concerning derogation of the abrogation established with regard to the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/146/EU of the Council of the European Union of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24-26).
10.06.2010	RT I 2010, 35, 193	08.07.2010, in part01.10.2012
23.02.2011	RT I, 25.03.2011, 1	01.01.2014date of entry into force amended 01.07.2014 [RT I, 22.12.2013, 1]
26.10.2011	RT I, 09.11.2011, 3	19.11.2011, in part01.01.2012
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

(1) This Act regulates the registration of plant varieties (hereinafter *varieties*), entry of varieties in the Variety List, granting of plant variety rights, the rights of the holders of plant variety rights, the production for marketing purposes of seed, plant propagating material (hereinafter *propagating material*), cultivating material and genetic resources, including the packaging, marketing and conveyance to Estonia and state supervision thereof, and the liability for violation of this Act and legislation established on the basis thereof.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

- 1) produced for one's own use;
- 2) intended for export;
- [RT I, 09.11.2011, 3 – entry into force 19.11.2011]
- 3) [Repealed – RT I 2009, 48, 321 – entry into force 23.10.2009]
- 4) seed used as industrial raw material.

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

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

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

[RT I 2006, 28, 211 – entry into force 01.07.2006]

## **§ 2. Variety and essentially derived variety**

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

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

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

## **§ 3. Seed**

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

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

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

## **§ 4. Propagating material**

(1) For the purposes of this Act, propagating material means seed potatoes and such horticultural plants as the planting material of fruit and ornamental plant species and vegetable species, which constitute plants or parts of plants intended for planting or replanting and plant material used for propagation of a plant species or production of planting materials, including rootstocks and seed, except vegetable seed.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

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

(4) For the purposes of this Act, a clone of a fruit species means a genetically identical plant obtained as a result of vegetative propagation of a fruit species.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

## **§ 5. Cultivating material**

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

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

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

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

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

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

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

#### **§ 6<sup>1</sup>. Variety intended for conservation of genetic resources**

(1) For the purpose of this Act, a variety intended for conservation of genetic resources means a variety specified in subsection 2 (1) of this Act, which has adapted to the circumstances prevailing in Estonia (hereinafter *region of origin*) and is at risk of loss over time due to human activity or environmental change, which will result in the loss of genetic diversity.

(2) The seed and propagating material of a variety intended for conservation of genetic resources is divided into groups of plant species or into groups of plant species groups based on the manner of use.

(3) The seed and propagating material of a variety intended for conservation of genetic resources must comply with the requirements established for the plant species or group of plant species in this Act, unless otherwise provided for in this Act.

(4) Requirements for the seed and propagating material of varieties intended for conservation of genetic resources divided into groups of plant species or into groups of plant species groups based on the manner of use will be established by the Minister of Agriculture.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

#### **§ 6<sup>2</sup>. Preservation mixture intended for preservation of natural environment**

(1) For the purposes of this Act, a preservation mixture means a fodder plant seed mixture which is intended for preservation of the natural environment and conservation of genetic resources. In addition to fodder plant seed, a preservation mixture may also contain the seed of other plant species.

(2) For the purposes of this Act, a directly harvested preservation mixture means a seed mixture marketed as collected at the collection site, with or without cleaning.

(3) For the purposes of this Act, a crop-grown mixture is a seed mixture produced as follows:

- 1) seed of individual species is taken at the collection site;
- 2) the seed is multiplied outside the collection site as single species;
- 3) the seeds of those species are then mixed to create a mixture which is composed of those genera, species or subspecies which are typical for the habitat type of the collection site.

(4) For the purposes of this Act, a collection site means a part of a protected natural object specified in clause 4 (1) 1), 2) 4) or 6) of the Nature Conservation Act (hereinafter *source area*), where the seed has been collected.

(5) A preservation mixture must comply with the requirements established in this Act and in legislation established on the basis thereof for varieties intended for conservation of fodder plants and the genetic resources of fodder plants, unless otherwise provided for in this Act and in legislation established on the basis thereof.

(6) More detailed requirements for preservation mixtures will be established by a regulation of the Minister of Agriculture.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

## **§ 7. Calculation of time limits of proceedings, delivery of decisions made under this Act and acts subject to state fee**

(1) The calculation of a time limit of proceedings granted to the Agricultural Board and the Environmental Board in this Act will commence after payment of the state fee, as of the date of receipt of an application and all the required documents confirming the data specified in the application (hereinafter collectively *application*).  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

(2) A decision made by the Agricultural Board or the Environmental Board under this Act will be communicated to a person within ten working days after the making the decision.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

## **§ 7<sup>1</sup>. Competent authority and responsible authority**

The competent authorities or responsible authorities provided for in the relevant legislation of the European Union are the Agricultural Board and the Environmental Board, acting within the limits of the competence provided for in this Act.  
[RT I 2010, 35, 193 – entry into force 08.07.2010]

# **Chapter 2 VARIETY**

## **Division 1 Requirements for Variety**

### **§ 8. Registration of variety**

(1) Only a registered variety can be protected by variety rights, entered in the Variety List or the list of recommended varieties of agricultural plants. Registration of a variety is a procedure in the course of which the compliance of the variety with the requirements of this Act is identified and a complying variety is entered in the Plant Varieties Register.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) To register a variety, the applicant must submit a standard-form application to the authorised processor of the Plant Varieties Register (hereinafter *registrar*). The applicant is responsible for the correctness of the information contained therein.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2<sup>1</sup>) In the event of a commonly known variety of a fruit species, a variety description must be submitted to the registrar.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2<sup>2</sup>) Requirements for variety descriptions of commonly known varieties of fruit species will be established by the Minister of Agriculture.  
[RT I 2010, 35, 193 – entry into force 08.07.2010]

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

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

### **§ 9. Breeder of variety and owner of variety**

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

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

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

(4) A breeder or owner of a variety who has no residence or seat in the republic of Estonia or another Member State of the European Union who wishes to register the variety, apply for the plant variety right or perform another act provided for in this Act must engage a representative with a residence or seat in the republic

of Estonia or another Member State for such purposes. The general principles of civil law apply to such representation.

#### **§ 10. Requirements for variety**

A variety must be distinct, uniform and stable and must bear a suitable variety denomination.

#### **§ 11. Distinctness of variety and commonly known variety**

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

(2) A variety is deemed to be commonly known if:

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

(3) A variety for the registration, granting plant variety rights or entry in the Variety List of which an application has been submitted is deemed to be commonly known to the registrar from the date of submission of the application presuming that after the receipt of the application the variety will be registered, granted plant variety rights or included in the Variety List.

#### **§ 12. Uniformity of variety**

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

#### **§ 13. Stability of variety**

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

#### **§ 14. Variety denomination**

(1) The application specified in subsection 8 (2) of this Act must include a proposal concerning a variety denomination in the form of a 'fancy name' which must be approved by the registrar. A proposal concerning the denomination of a variety intended for conservation of genetic resources may contain several historically known denominations of the variety.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

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

#### **§ 15. Requirements for variety denominations**

A variety denomination must comply with the requirements established by Commission Regulation (EC) No. 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species (OJ L 191, 23.07.2009, pp. 10-14).

[RT I 2010, 35, 193 – entry into force 08.07.2010]

#### **§ 16. Registration trials**

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

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

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

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

(4) In the event of a commonly known variety of fruit species and a variety intended for conservation of genetic resources no registration trials will be carried out if the compliance of the variety can be identified on the basis of the variety description and other information.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

## **§ 17. Organising and carrying out registration trials**

(1) Registration trials are arranged by the registrar.

(1<sup>1</sup>) The registration trials of a variety intended for conservation of genetic resources and a vegetable variety whose seed is to be marketed only as standard seed may be carried out by an applicant in accordance with the procedure provided for in subsections (2) to (4) of this section.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(1<sup>2</sup>) [Repealed – RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2) Registration trials will be carried out under the supervision of the registrar. The registrar will forward the documents necessary for carrying out registration trials of a variety to the person carrying out the trials.

(3) The registration trials for the establishment of the distinctness, uniformity and stability of a variety will be carried out in compliance with the methodology of the Community Plant Variety Office (hereinafter *CPVO*) and, in the absence thereof, the methodology of the International Union for the Protection of New Varieties of Plants (hereinafter *UPOV*).

(3<sup>1</sup>) For the purpose of identifying the distinctness, uniformity and stability of a variety intended for conservation of genetic resources, the registrar may elaborate and appropriate methodology for carrying out registration trials on the basis of the methodologies specified in subsection (3) of this section.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(4) If no methodology specified in subsection (3) of this section applicable to a plant species exists, the registrar will elaborate an appropriate methodology in compliance with the internationally recognised principles applied by the UPOV, and coordinate it with the person carrying out the registration trials.

(5) The registrar will determine the quality and quantity of the seed or propagating material of the variety indicated in an application and any requisite reference varieties necessary for carrying out the registration trials.

(6) The registrar will set the applicant the time and place for delivery of the material necessary for carrying out the registration trials.

(7) Registration trials will be carried out in the place and during the period prescribed by the registrar.

(8) The costs directly related to carrying out registration trials will be borne by the applicant for registration based on an invoice issued by the individual or entity carrying out the registration trials.

(9) The procedure for carrying out registration trials, including for recognition of the parent plants of fruit species may be established by the Minister of Agriculture.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

(10) The results of registration trials will be recognised in a report.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

## **§ 18. Evaluation of compliance of distinctness, uniformity and stability of variety**

(1) On the basis of registration trials, the registrar will make a decision on the conformity or non-conformity of the distinctness, uniformity and stability of a variety within 30 working days as of the receipt of a report on registration trials.

(2) If the registrar makes a decision about the compliance or non-compliance of a variety intended for conservation of genetic resources on the basis of a variety description and other information, the registrar will make a decision within 30 days after the receipt of the variety description and relevant information.

(3) If the registrar makes a decision about the compliance or non-compliance of a commonly known variety of a fruit species on the basis of a variety description, the registrar will make a decision within 30 working days after the receipt of the variety description.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

### **§ 19. Verification of compliance of variety denominations**

(1) The registrar will publish a proposal concerning a variety denomination on its website and in the official publication of the Agricultural Board.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

(2) The registrar will verify the compliance of a variety denomination with the requirements provided in § 15 of this Act within 20 working days after receiving the proposal for the variety denomination.

(3) If the registrar establishes that the proposed variety denomination does not comply with the requirements provided by this Act, the applicant will be notified thereof. The applicant has the right to make a new proposal for a variety denomination within 30 days after receiving a notice to such effect. The compliance of the new variety denomination will be verified pursuant to the procedure provided in this section.

(4) If the applicant fails to make a proposal for a new variety denomination within the time limit provided in subsection (3) of this section, the registrar will make a decision to terminate the registration of the variety.

### **§ 20. Objection to proposed variety denomination**

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

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

(3) An applicant must respond to an objection in writing within 30 days after receipt thereof.

(4) The registrar will make a decision to disregard an objection or accept an objection within 20 working days after the receipt of the written response specified in subsection (3) of this section, and will forward it to the person who filed the objection and to the applicant within ten working days after making the decision.

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

### **§ 21. Approval of variety denomination**

(1) If a variety denomination complies with the requirements of this Act, the registrar will make a decision to approve the variety denomination.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) The registrar may approve several historically known variety denominations as the denominations of a variety intended for conservation of genetic resources or a commonly known variety of a fruit species.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

### **§ 22. Registration of variety and variety certificate**

(1) If a variety meets the requirements of variety denomination, distinctness, uniformity and stability, the registrar will make a decision to register the variety and will issue a variety certificate.

(1<sup>1</sup>) If a commonly known variety of a fruit species complies with the requirements of variety denomination, distinctness, uniformity and stability and the variety description complies with the requirements as well, the registrar will make a decision to register the variety.  
[RT I 2010, 35, 193 – entry into force 08.07.2010]

(1<sup>2</sup>) The registrar will make a decision to register a genetically modified variety of a fruit species if:  
1) the variety complies with the requirements for variety denomination, distinctness, uniformity and stability;  
2) the applicant has been granted marketing authorisation specified in the Release into Environment of Genetically Modified Organisms Act regarding the genetically modified organism contained in the variety;

3) regarding the genetically modified organism contained in the variety, the applicant has been granted the authorisation specified in Article 4(2) or 16(2) of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ L 268, 18.10.2003, pp. 1-23).  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2) The registrar will make an entry in the Plant Varieties Register on the day of making the decision to register a variety.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

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

### **§ 23. Revision of variety denomination**

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

[RT I 2008, 23, 150 – entry into force 01.07.2008]

1) on the decision of the registrar if, after approval of the variety denomination, making the decision to register the variety or entry thereof in the Plant Varieties Register, it becomes evident that the variety denomination does not meet the requirements provided for in this Act;

[RT I 2008, 23, 150 – entry into force 01.07.2008]

2) at the request of the owner of the variety, if there is good reason to revise the variety denomination;

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

(2) In the event specified in subsection (1) of this section, the owner of the variety must submit to the registrar a new proposal for the variety denomination. The compliance of the new variety denomination will be verified within the time limits and pursuant to the procedure provided in this Division. A new variety denomination enters into force on the date of entry thereof in the register.

## **Division 2**

### **Variety List and Procedure for Entry in Variety List**

### **§ 24. Variety list**

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

(2) The seed and propagating material of varieties listed in the European Union common catalogue of varieties of agricultural plant species or in the common catalogue of varieties of vegetable species (hereinafter *EU common catalogue of varieties of agricultural plant or vegetable species*) is certified and may be marketed in Estonia.

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

(4) Varieties of agricultural plant and vegetable species not included in the EU common catalogue of varieties of agricultural plant or vegetable species may also be entered in the Variety List. The seed of a variety of a species subject to such certification will be certified in Estonia.

(5) [Repealed – RT I 2009, 48, 321 – entry into force 23.10.2009]

### **§ 25. Entry in Variety List**

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

(1<sup>1</sup>) Entry of a variety intended for conservation of genetic resources in the Variety List is a procedure for establishing the compliance of the variety with the requirements provided in § 10 of this Act.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) A compliant variety is entered in the Variety List on the basis of an application of the owner of the variety or of the maintainer of the variety. The registrar will publish the information concerning the received applications on its website and in the official publication of the Agricultural Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(4) The Variety List and a list of maintainers of varieties included in the Variety List will be published on the website of the registrar and in the official publication of the Agricultural Board. Genetically modified varieties



and varieties intended for conservation of genetic resources will be correspondingly designated in the Variety List.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

## **§ 26. Requirements for varieties entered in Variety List**

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

1) the variety complies with the requirements for distinctness, uniformity and stability and the requirements for variety denominations provided in § 15 of this Act;

2) the variety has satisfactory value for cultivation and use which has been determined by way of state trials for the agricultural value of cultivation and use (hereinafter *trials for the agricultural value of cultivation and use*);

3) the variety is not harmful to plant health, human health and the environment.

[RT I 2006, 28, 211 – entry into force 01.07.2006]

4) the applicant has been granted marketing authorisation specified in the Release into Environment of Genetically Modified Organisms Act regarding the genetically modified organism contained in the variety;

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

5) the applicant has been granted the authorisation specified in Article 4(2) or 16(2) of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2) Varieties of grasses intended for cultivation of lawn and varieties of vegetable species are entered in the Variety List if such species comply with the requirements provided in clause 1) of section (1) of this section.

[RT I 2006, 28, 211 – entry into force 01.07.2006]

(3) If a variety component used for creating hybrid varieties complies with the requirements provided in clause 1) of section (1) of this section, it will be included in the Variety List under the variety denomination of the constituent.

[RT I 2006, 28, 211 – entry into force 01.07.2006]

(4) The types of hybrid varieties specified in subsection (3) of this section and inbred lines by groups of agricultural plant and vegetable species will be established by the Minister of Agriculture.

[RT I 2006, 28, 211 – entry into force 01.07.2006]

(5) A variety intended for conservation of genetic resources will be entered in the Variety List if it complies with the requirements provided for in clauses 1) and 3) of subsection (1) of this section and if the variety has been historically grown in Estonia and it has adapted here.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(6) The compliance of a variety with the requirements for varieties of agricultural plant and vegetable species intended for conservation as plant genetic resources will be established by the registrar.

[RT I 2006, 28, 211 – entry into force 01.07.2006]

(7) [Repealed – RT I 2009, 48, 321 – entry into force 23.10.2009]

## **§ 27. Arranging and carrying out trials for agricultural value of cultivation and use**

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

(2) Trials for the agricultural value of cultivation and use are carried out under the supervision of the registrar. The registrar will forward the documents necessary for carrying out trials for the agricultural value of cultivation and use to the individual or entity carrying out the trials.

(3) Trials for the agricultural value of cultivation and use for determining the value for cultivation and use of a variety will be carried out in compliance with the methodology for trials for the agricultural value of cultivation and use elaborated by the registrar and approved by the person carrying out the trials, and the cultivation value received as a result of the trials will be compared to the cultivation value of standard varieties.

(4) The registrar will communicate to the applicant a time limit and a place for delivering the material necessary for carrying out the trials for the agricultural value of cultivation and use.

(5) Trials for the agricultural value of cultivation and use will be carried out in a place and within the time limit prescribed by the registrar.

(6) Direct costs relating to the carrying out of trials for the agricultural value of cultivation and use will be paid by the applicant on the basis of an invoice submitted to the applicant.

(7) The procedure for performance of trials for the agricultural value of cultivation and use may be established by the Minister of Agriculture.

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

(1) A report on the results of trials for the agricultural value of cultivation and use will be submitted to the registrar.

(2) Based on the results of trials for the agricultural value of cultivation and use and considering the value for cultivation and use of a variety, the registrar will make a decision to list or to refuse to list a variety in the Variety List by December 31 of the year of receipt of the report concerning the trials for the agricultural value of cultivation and use of the last year of trials.

(3) The registrar will make a decision to list or refuse to list a variety intended for conservation of genetic resources in the Variety List within two calendar months on the basis of an application and documents annexed thereto, which have been submitted before February 1, taking account of the opinion of the authority engaged in the organisation of the conservation of genetic resources of agricultural plant and vegetable species. The authority engaged in conservation of genetic resources of agricultural plant and vegetable species is the Ministry of Agriculture.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

(4) The registrar will refuse to list a variety intended for conservation of genetic resources in the Variety List if:

- 1) the variety has already been listed in the Variety List or in the EU common catalogue of varieties of agricultural plant or vegetable species as a variety other than that intended for conservation of genetic resources;
- 2) the variety has been deleted from the Variety List or the EU common catalogue of varieties of agricultural plant or vegetable species within the last two years;
- 3) less than two years have passed from the time limit permitted for the certification and marketing of the seed of the variety deleted from the Variety List or common catalogue of varieties of agricultural plant or vegetable species;
- 4) it is protected by a community plant variety right provided for in Council Regulation (EC) No. 2100/94;
- 5) it is protected by a national plant variety right;
- 6) the application for the plant variety right is pending.

(5) A variety is maintained in the Variety List for ten calendar years.

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

(7) The procedure for entry of varieties intended for conservation of genetic resources, including the data to be submitted in an application, the application form and the list of documents to be annexed to the application, will be established by the Minister of Agriculture.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

## **§ 29. Requirements for maintenance of varieties of fruit, agricultural plant and vegetable species**

[RT I 2010, 35, 193 – entry into force 08.07.2010]

(1) Varieties of agricultural plant and vegetable species listed in the Variety List and varieties of fruit species must comply with the requirements for the distinctness, uniformity and stability of the variety (hereinafter *maintenance of variety*). A variety of an agricultural plant or vegetable species entered in the Variety List will be maintained throughout the period in which the variety is kept in the Variety List. The maintenance of a variety will be guaranteed by the maintainer of the variety. A variety intended for conservation of genetic resources will be maintained in the region of origin of the variety.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

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

(3) By the date and at the place prescribed by the registrar, the maintainer of a variety will submit information and documents pertaining to the maintenance of the variety together with the seed or a sample, specimen or variety constituent of propagating material of the variety necessary for performing a test or replacing a standard sample. Standard samples are stored in adherence to the instructions of the Organisation for Economic Cooperation and Development (hereinafter *OECD*).

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(4) The minimum requirements for the characteristics of fruit, agricultural plant and vegetable species and the requirements for maintenance checks of varieties performed in the course of supervision will be established by

the Minister of Agriculture, taking account, in addition to the requirements provided by the legislation of the European Union, also of the test guidelines issued by the CPVO and UPOV.  
[RT I 2010, 35, 193 – entry into force 08.07.2010]

### **§ 30. Renewal of term of listing variety in Variety List**

(1) Based on the request of an applicant, the registrar may renew the term listing a variety in the Variety List for up to ten years after the day following the date of expiry of the term for listing the variety in the Variety List if it is established that the variety of the agricultural plant or vegetable species continues to be maintained.

(2) For renewal of the term for listing a variety in the Variety List, the applicant must submit the request specified in subsection (1) of this section to the registrar two years prior to the date provided in subsection 28 (5) of this Act.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(3) The registrar will make a decision to renew the term for listing a variety in the Variety List or a decision to refuse to renew the term for listing a variety in the Variety List within ten working days after receiving the results of the maintenance checks of the variety.

### **§ 31. Exclusion from Variety List**

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

- 1) the variety does not comply with the requirements of this Act;
- 2) false information has been knowingly submitted in the application for entry of the variety in the Variety List or for carrying out trials for the agricultural value of cultivation and use;
- 3) the state fee has not been paid for the year of listing the variety in the Variety List;
- 4) the time limit of listing the variety in the Variety List has expired;
- 5) the applicant for the variety has submitted a corresponding application.

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

### **§ 32. Carrying out growing trials with variety concerning which application for entry in Variety List has been submitted**

(1) A person applying for entry of a variety of an agricultural species in the Variety List in Estonia or a person applying for entry of a variety of a vegetable species in the Variety List in Estonia or another Member State may conduct a growing trial of the variety in order to gather information on the cultivation or use of the variety, and to market the seed of the variety for the purposes of carrying out the trial.

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

(3) To obtain the authorisation, a person specified in subsection (1) of this section will submit an application to the registrar. The registrar will make a decision to grant authorisation for a growing trial or a decision to refuse to grant authorisation for a growing trial within 30 working days after receiving the application.

(4) The maximum quantities of seed and seed potatoes authorised for carrying out growing trials will be established by the Minister of Agriculture.

### **§ 33. List of recommended varieties of agricultural plant species**

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

(2) The owner, representative or maintainer of a variety seeking the entry of the variety in the list of recommended varieties of agricultural plants will submit to the registrar an application to this effect.

[RT I 2007, 6, 32 – entry into force 01.02.2007]

(3) The registrar will carry out additional trials based on a submitted application. Direct costs relating to carrying out additional tests will be paid by the applicant on the basis of an invoice submitted to the applicant.

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

(5) The list of recommended varieties of agricultural plants will be published on the website of the registrar and in the official publication of the Agricultural Board.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

#### **§ 34. List of varieties of fruit and ornamental plants**

(1) Suppliers of fruit and ornamental plant species will draw up a list of varieties produced, processed or marketed by them.

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

- 1) known;
- 2) entered in the Plant Varieties Register;

[RT I 2008, 23, 150 – entry into force 01.07.2008]

- 3) protected by plant variety rights.

(3) The requirements for compilation of list of varieties of fruit and ornamental plant species will be established by the Minister of Agriculture.

### **Division 3 Plant Variety Right**

#### **§ 35. Nature of plant variety right**

(1) The plant variety right is granted with respect to all plant genera and species, including hybrids between them. The plant variety right will not be granted with respect to varieties which have been granted the plant variety right of the European Union pursuant to Council Regulation (EC) No. 2100/94 on Community plant variety rights (OJ L 227, 01.09.1994, pp. 1–30).

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

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

(2<sup>1</sup>) If the holder of the plant variety right has not had the opportunity to exercise their rights regarding the seed and propagating material of the variety, the provisions of clauses 1) to 5) of subsection (2) of this section apply to harvested plant material produced using the seed or propagating material of the protected variety.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

- 1) in scientific research and in official trials conducted for the purposes of comparison;
- 2) as parental material for breeding new varieties;
- 3) for non-commercial personal purposes.

#### **§ 36. Scope of plant variety right**

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

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

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

(3) For the purposes of this Act, growing in small quantities means the growing of the seed and propagating material of a protected variety in events where up to 10 hectares of arable land is used for cultivating the agricultural species, and up to 1 hectare of arable land is used for growing potatoes. Grassland that is in use or

is intended for use for a period over five years will not be included in the arable land used for growing small quantities of plants.

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

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

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

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

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

### **§ 37. Conditions for granting plant variety right**

The plant variety right is granted if the variety meets the requirements of § 10 of this Act, is new and the plant variety right of the European Union has not been granted with respect to the variety.

### **§ 38. Novelty**

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

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

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

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

### **§ 39. Processing application for plant variety right**

(1) Granting the plant variety right is a procedure in the course of which the registrar verifies the compliance of a variety with the requirements for varieties pertaining to their distinctness, uniformity, stability, variety denomination and novelty, establishes the fact that a European Union plant variety right has not been granted with respect to the variety and makes an entry concerning the granting of the plant variety right with respect to the variety in the Plant Varieties Register.

[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) An application for the plant variety right will be submitted by the owner of the variety. If there are several owners of a variety, they will submit a joint application with an indication of the percentage of the share of each owner.

(3) The registrar will publish applications for plant variety rights on its website and in the official publication of the Agricultural Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

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

#### **§ 41. Provisional protection of variety**

- (1) A variety is deemed to be under provisional protection from the date of receipt of the application for the plant variety right until the date of making the decision to grant the plant variety right or the decision to refuse to grant the plant variety right.
  - (2) During the period of provisional protection, the requirements for protected varieties provided by this Act apply to the variety.
  - (3) During the period of provisional protection, the owner of a variety has the rights of a holder of the plant variety right.
- [RT I 2007, 6, 32 – entry into force 01.02.2007]

#### **§ 42. Priority**

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

#### **§ 43. Filing objections**

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

#### **§ 44. Response to objection**

- (1) Within three months of receipt of an objection, the applicant will submit a written position concerning the objection which will set out whether the applicant wishes to retain the application unamended, to amend the application or to withdraw the application. If necessary, the registrar may extend such time limit.
- (2) The registrar will forward a response to the objector by sending a registered letter with advice of delivery within ten working days after receipt of the objection.
- (3) Within 30 days after receiving the response, the objector will give written notice as to whether the objector wishes to maintain or withdraw the objection. An objection is deemed to be withdrawn if the objector has not given notice by the due date as to whether the objector wishes to maintain or withdraw the objection.
- (4) If the applicant has not responded to an objection by the due date, the application requesting that the plant variety right be granted is deemed to be withdrawn.

#### **§ 45. Decision concerning objection**

The registrar will make a decision to approve an objection, arrange new registration trials or refuse to satisfy an objection within 30 working days after the date specified in subsection 44 (3) of this Act.

#### **§ 46. Granting or refusing to grant plant variety right**

(1) If a variety meets the requirements provided by this Act, the registrar will make a decision to grant the plant variety right and, on the same day, make a corresponding entry in the Plant Varieties Register.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) If a variety does not meet the requirements provided by this Act, the registrar will make a decision to refuse to grant the plant variety right, and the provisional protection of the variety ends on the date of making the decision.

(3) A variety entered in the Plant Varieties Register, except for varieties of grape vine and tree species, will remain under variety protection for 25 years after the date of making the decision to grant the plant variety right. A variety of a grape vine or tree species entered in the Plant Varieties Register will remain under variety protection for 30 years after the date of making the decision to grant the plant variety right.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

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

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

#### **§ 47. Certificate of plant variety right**

(1) The registrar will issue a certificate of the plant variety right to the holder of the plant variety right within ten working days after the date of making the decision to grant the plant variety right and making a corresponding entry in the Plant Varieties Register. A certificate of the plant variety right is valid during the period in which the variety is protected by the plant variety right.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) If a variety is granted the plant variety right directly after the variety is registered, the certificate of the plant variety right will substitute for the variety certificate.

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

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

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

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

(3) The registrar will make a decision to extend the term of validity of the plant variety right or a decision to refuse to extend the term of validity of the plant variety right no later than 20 working days before the expiry of the term.

#### **§ 49. Termination of validity of plant variety right**

(1) The registrar will make a decision to revoke the decision to protect a variety by the plant variety right if:

- 1) the holder of the plant variety right has submitted a written application to this effect to the registrar;
- 2) a precept has not been complied with by the date set in the precept;
- 3) a new proposal for variety denomination has not been submitted during the time limit set for such purpose;
- 4) the variety has not been maintained;
- 5) no state fee has been paid for the plant variety right.

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

(3) The registrar will make a decision to revoke a decision grant the plant variety right within 30 working days after the date of receipt of the application specified in clause 1) of subsection (1), becoming aware of the circumstances specified in clauses 2) or 4), or after the date of expiry of the term specified in clause 3) of this section, and will make a corresponding entry in the varieties register.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 50. Retroactive cancellation of plant variety right**

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

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

(2) The registrar will make a decision to retroactively revoke a decision to grant the plant variety right within 30 working days after the establishment of a circumstance specified in subsection (1) of this section and will make a corresponding entry in the Plant Varieties Register.

[RT I 2008, 23, 150 – entry into force 01.07.2008]

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

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

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

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

(3) In order to amend the data in the register pertaining to the holder of the plant variety right, the person to whom the rights of the holder transfer will submit a corresponding application to the registrar, accompanied by a document certifying the transfer or an officially certified copy thereof.

(4) The application specified in subsection (3) of this section will be filed with the registrar within one year after the date specified in the transaction or after the date of creation of the right of succession or legal succession. If the rights of the holder of the plant variety right are transferred pursuant to a court judgment, the application will be filed with the registrar within 30 working days after the date on which the court judgment enters into force.

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

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

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

## **Division 4**

### **Licence and Compulsory Licence**

#### **§ 52. Licence**

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

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



### **§ 53. Compulsory licence**

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

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

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

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

### **§ 54. Issue of compulsory licence**

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

(2) The Minister of Agriculture will make a decision to issue a compulsory licence or to refuse to issue a compulsory licence within 30 working days after the receipt of the application.

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

[RT I 2008, 23, 150 – entered into force 01.07.2008]

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

### **§ 55. Conditions of compulsory licence**

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

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

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

### **§ 56. Revocation of compulsory licence**

The Minister of Agriculture will revoke a compulsory licence before the date of expiry of the compulsory licence if:

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

## **Division 5 Plant Varieties Register**

[RT I 2008, 23, 150 - entry into force 01.07.2008]

### **§ 57. Foundation and organisation of activities of Plant Varieties Register**

[RT I 2008, 23, 150 – entry into force 01.07.2008]

(1) The Plant Varieties Register (hereinafter *register*) is a database established by the Government of the Republic, which is part of the state information system. The statutes of the register will be established by the Government of the Republic.

[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) The chief processor of the register is the Ministry of Agriculture and the authorised processor of the register is the Agricultural Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

#### **§ 58. Information subject to entry in register**

- (1) Data prescribed by this Act concerning a variety will be entered in the register.
- (2) A register entry is made based on a submitted application or a decision of the registrar.

#### **§ 59. Refusal to make register entry**

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

- 1) the state fee has not been paid;
- 2) the applicant has knowingly submitted false information to the Agricultural Board or has unlawfully influenced the Agricultural Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 60. Amendment of registry entry**

- (1) In the event of a change of the data which serve as the basis for a register entry, the person will give the registrar written notification thereof within 14 days after the date on which the change to the data took place.
- (2) The registrar will make a decision to amend a register entry within five working days after the date of receipt of the relevant notice.

#### **§ 61. Protection and disclosure of data entered in register**

(1) Data entered in the register, except for data not subject to disclosure, will be public and will be disclosed on the website of the registrar and may also be published on paper, in both events taking account of the requirements of the Personal Data Protection Act.

(2) Access to data not subject to disclosure and data designated for internal use under an act is restricted, and such data may be used for official purposes only by the Agricultural Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

(4) Registry data will be preserved permanently.

## **Chapter 3 PRODUCTION AND CERTIFICATION**

#### **§ 62. Production**

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

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

#### **§ 63. Supplier of propagating and cultivating material**

(1) For the purposes of this Act, a supplier of propagating and cultivating material means a person engaged in the propagation, production, storage, processing, marketing or importing of propagating or cultivating material.

(2) Before commencement of operations, a supplier of propagating material must submit a notice of economic activities to the Agricultural Board. Before commencement of operations, a supplier of cultivating material must submit a notice of economic activities to the Environmental Board.

(3) A supplier of propagating material does not have to submit a notice of economic activities:

- 1) in order to engage in a field of activity specified in § 65<sup>1</sup> of this Act;
- 2) in order to engage in the activities specified in clauses 31 (3) 1) to 5) of the Plant Protection Act.

(4) In addition to the information specified in the General Part of the Economic Activities Code Act, a notice of economic activities must set out the information specified in subsection 31 (4) of the Plant Protection Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

#### **§ 64. Requirements for supplier of propagating and cultivating material**

(1) [Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

(2) Suppliers of propagating and cultivating material will take all necessary measures to guarantee the production of propagating and cultivating material in compliance with the requirements of this Act and the compliance of the propagating and cultivating material.

(3) In order to comply with the requirement specified in subsection (2) of this section, a supplier of propagating material of horticultural plants or a supplier of cultivating material engaged in the production of plants of forest trees will determine, based on the production method used, the main critical points of the production process as well as the measures applied in such points of the process, will record the above and guarantee the use of such measures (hereinafter *self-control system*).

(4) The self-control system of suppliers of cultivating material will be in compliance with the production method of the cultivating material and include requirements and an action plan for the control of pests reducing the quality of the cultivating material and of harmful organisms, and for the evaluation of the quality of the plants.

(5) The requirements for the self-control system of suppliers of propagating material of horticultural plants will be established by the Minister of Agriculture.

(6) The requirements for the self-control system of suppliers of cultivating material engaged in the production of plants of forest trees will be established by the Minister of the Environment.

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

(1) A supplier will guarantee that propagating or cultivating material is produced:

- 1) on a plot of land, or in a building or construction works used for production, and will prevent the contamination of the plants by harmful organisms or pests reducing the quality of the produced plant species;
- 2) in the event of cultivating material, by using technology suitable for such purposes;
- 3) in the event of micropropagation, in a laboratory complying with the requirements.

(1<sup>1</sup>) If a supplier identifies, on a plot of land used for producing the propagating or cultivating material or in a building or construction works used for producing the propagating or cultivating material, a prevalence of a plant pest in excess of the maximum permitted quantity and such plant pest may reduce the quality of the plant species, the supplier will immediately inform the law enforcement authority thereof and take the measures requested by the law enforcement authority.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(2) Propagating and cultivation material produced by way of micropropagation will have varietal and species identity.

(3) For production of seed in seed orchards, progeny of plus-trees recognised by the Environmental Board will be used upon foundation of the seed-orchards.

[RT I 2009, 3, 15 – entry into force 01.02.2009]

(4) A list of pests which reduce the quality of seed or propagating material of a plant species or a group of plant species and their maximum permitted quantities will be established by the Minister of Agriculture.

(5) The Minister of Agriculture will establish the requirements for the micropropagation of propagating material and for laboratories engaging in micropropagation.

(6) The requirements for laboratories engaging in micropropagation of cultivating material will be established by the Minister of the Environment.

(7) The requirements for the production of seed and propagating material intended for the conservation of seed, propagating material and genetic resources will be established by the Minister of Agriculture.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(8) The requirements provided for in this section apply to the production of parents of seed, propagating and cultivating material of hybrid species, and to the production of rootstock of propagating and cultivating material.

## **§ 65<sup>1</sup>. Plant species micropropagation licence obligation**

An undertaking must have an activity licence for the micropropagation of a plant species.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

## **§ 66. Applying for activity licence**

(1) An application for the micropropagation of a plant species is reviewed, in the event of propagating material, by the Agricultural Board and, in the event of plants of forest trees, by the Environmental Board.

(2) In addition to the information required in the General Part of the Economic Activities Code Act, an application for an activity licence must contain the following information:

- 1) the plant species that is to be propagated;
  - 2) the location and area of the immovable to be used for production, the name and marking of the existing equipment, the number of qualified employees, a notation regarding the fence of the production territory and the availability of watering facilities required for plant production.
- [RT I, 29.06.2014, 1 – entry into force 01.07.2014]

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

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

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

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

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

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

## **§ 70. Object of inspection of activity licence**

An activity licence will be granted to an undertaking if the undertaking and its enterprise comply with the requirements arising from this Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

## **§ 71. Secondary conditions of activity licence**

The secondary condition of an activity licence granted for the micropropagation of a plant species is the plant species authorised for propagation.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

## **§ 72. Requirements for producing mixtures of fodder plant seeds**

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(1) To produce a fodder plant seed mixture, the person must have equipment suitable for producing a seed lot of stable quality, the technological scheme for production of the seed mixture and have a person in charge of the production of the compliant seed mixture and the person must keep account of the production of the seed mixtures.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) A person engaged in the production of a fodder plant seed mixture must inform the Agricultural Board not later than seven days before the commencement of the production of the seed mixture about the mass per cent of the seeds of the mixture per plant species and variety and about the name of the seed mixture.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

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

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(5) More detailed requirements for production of preservation mixtures will be established by a regulation of the Minister of Agriculture.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

### **§ 73. Certification of seed and propagating and cultivating material**

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

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(3) Field inspection is carried out by the Agricultural Board or, for particular species and categories of plants, by an authorised field inspector.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(4) A sample is taken by the Agricultural Board or a person authorised to take samples.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

(6) For the purposes of this Act, certification of cultivating material means the analysing of the seed of forest trees by an accredited laboratory using internationally recognised methods, and the assessment of the compliance with established quality requirements and the descent of other plant material, and the issue of document in proof of certification by the Environmental Board, and the sealing of the sales packaging of certified seed under the supervision of the Environmental Board.

[RT I 2009, 3, 15 – entry into force 01.02.2009]

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

(8) The procedure for the certification of cultivating material will be established by the Minister of the Environment.

### **§ 74. Organisation and extent of certification**

(1) The certification of seed and propagating material is organised by the Agricultural Board on the basis of an application by owner of variety or the representative or maintainer thereof. The certification of cultivating material is organised by the Environmental Board on the basis of an application by a supplier producing or marketing the cultivating material.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

(2) Seed and seed potatoes of the varieties listed in the Variety List or the EU common catalogue of varieties of agricultural plant and vegetable species as well as propagating material and cultivating material of the varieties of the fruit species entered in the list Plant Varieties Register or taken under protection are subject to certification.

[RT I 2008, 23, 150 – entry into force 01.07.2008]

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

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

(5) The list of agricultural and horticultural plant species subject to certification will be established by the Minister of Agriculture.

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

[RT I 2006, 28, 211 – entry into force 01.07.2006]

### **§ 75. Document attesting certification and validity thereof**

(1) A document attesting certification is issued for lots of certified seed or propagating material by the Agricultural Board and for lots of certified cultivating material by the Environmental Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(3) The requirements for the content of documents attesting the certification of cultivating material will be established by the Minister of the Environment.

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

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

(6) The term of validity of a document attesting the certification of seed may be extended at the request of the owner of the seed lot. To that end, the owner of a seed lot will submit a corresponding application to the Agricultural Board or, in the case of cultivating material, to the Environmental Board within 30 days before the expiry of the document attesting certification.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

(7) If a seed lot complies with the requirements established for the germination rate of certified seeds, the Agricultural Board or the Environmental Board will extend the term of validity of the document attesting certification by making a note of extension on the document.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

#### **§ 76. Other seed and propagating and cultivating material**

(1) For the purposes of this Act, other seed means compliant standard or commercial seed of plant species subject to certification which may be placed on the market, or compliant seed of plant species not subject to certification.

(2) For the purposes of this Act, other propagating and cultivating material means uncertified propagating and cultivating material of plant species subject to certification, and compliant propagating and cultivating material of plant species not subject to certification.

(3) The compliance of other seed with the quality requirements will be guaranteed by the producer or distributor of the seed. The compliance of other propagating and cultivating material with the quality requirements will be guaranteed by the supplier thereof.

(4) The quality requirements for other seed and propagating material by plant species or groups of plant species will be established by the Minister of Agriculture.

(5) The quality requirements for other cultivating material will be established by the Minister of the Environment.

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

#### **§ 76<sup>1</sup>. Production of seed and propagating material of variety intended for conservation of genetic resources**

(1) The seed and propagating material of a variety intended for conservation of genetic resources may be produced only in the region of origin of the variety.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) The producer or supplier will ensure the compliance of the seed of a variety intended for conservation of genetic resources and the supplier will ensure the compliance of the propagating material of a variety intended for conservation of genetic resources.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(3) The producer or supplier will organise the field inspection and analysis of the samples of the seed and seed potatoes of a variety intended for conservation of genetic resources.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

(4) The producer or supplier will certify the seed and seed potatoes of a variety intended for conservation of genetic resources in accordance with international requirements. For the purpose of ensuring the compliance of certification of the seed and seed potatoes of a variety intended for conservation of genetic resources, a field inspection will be carried out, samples will be analysed and post-control field trials will be carried out.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

## **§ 77. Keeping records on production**

(1) A supplier engaged in the production of propagating or cultivating material:

- 1) will have a land use plan, or a field record established by the Water Act concerning a plot of land which the supplier uses for the production of propagating or cultivating material in the possession of the supplier;
- 2) will have a plan for use concerning a building or construction works which the supplier uses for the production of propagating or cultivating material.

(2) A land use plan is a body of data kept on paper or in digital form which contains the data of the user, a map of the land possession, and data characterising buildings and construction works such as data concerning their areas and data on produced crops. Where necessary, it must be possible to reproduce digital data on paper.

(3) Producers of seed will keep a field record.

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

[RT I 2009, 48, 321 – entry into force 23.10.2009]

## **Chapter 4**

### **AUTHORISED FIELD INSPECTORS AND AUTHORISED SEED SAMPLERS**

## **§ 78. Authorised field inspector**

(1) An authorised field inspector (hereinafter *field inspector*) is a natural person who has been authorised pursuant to the procedure provided by this Act to carry out field inspections.

(2) A field inspector specified in subsection (1) of this section will:

- 1) perform necessary acts pursuant to the procedure established by the Agricultural Board and under the supervision thereof;

[RT I 2009, 34, 224 – entry into force 01.01.2010]

- 2) certify by their signature, in order to be authorised, that they will follow the instructions given to them and will derive no gain from the performance of the acts.

## **§ 79. Requirements for applicants for rights of field inspector**

An applicant for the rights of a field inspector will be:

- 1) educated in agriculture;
- 2) in possession of means to perform the duties relating to the authority;
- 3) able to act impartially and provide appropriate assessments of actual situations in seed fields.

## **§ 80. Field inspector training**

A field inspector must have completed a relevant training course organised by the Agricultural Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

## **§ 81. Application for authorisation as field inspector**

(1) In order to be authorised as a field inspector, an applicant will submit the following to the Agricultural Board:

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

(2) The Agricultural Board will review the documents specified in subsection (1) of this section and assess the compliance of the applicant with the requirements established for field inspectors. The Agricultural Board has the right to verify the authenticity of the documents submitted by the applicant and, if necessary, request additional information and documents.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 82. Authorisation of field inspector**

(1) The Agricultural Board will authorise field inspectors and conclude public law contracts with them for the performance of administrative functions.

(2) The Agricultural Board will decide to authorise or refuse to authorise an applicant after the applicant has completed the training specified in § 80 of this Act.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 83. Rights of field inspector**

(1) A field inspector has the right, pursuant to the scope of their authority, to:

- 1) access information and documents necessary for carrying out field inspection;
- 2) draw up field inspection reports;
- 3) use technical equipment for field inspection;
- 4) make a proposal to the Agricultural Board to carry out a post-control trial of a seed field subject to field inspection.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(2) A field inspector has the right to surrender their authority by notifying the Agricultural Board thereof by an unregistered letter at least 30 days in advance.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 84. Duties of field inspector**

A field inspector is required to:

- 1) impartially perform the duties vested in them by their authority;
- 2) guarantee that field inspection reports and other documents are prepared in a lawful, compliant and proper manner;
- 3) maintain business and professional secrets which become known to them during field inspection;
- 4) ensure that a field inspection report is forwarded to the Agricultural Board within ten working days, and in the event of winter crops, within five working days after the field inspection;

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

5) after termination of the authority, forward the document specified in clause 4) of this subsection to the Agricultural Board;

[RT I 2009, 34, 224 – entry into force 01.01.2010]

6) at the request of the Agricultural Board, submit all documents needed for supervision over the person's activity relating to the authority to the Agricultural Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 85. Termination of authority**

(1) Authority terminates in the event of:

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

(2) The Agricultural Board will immediately take measures to ensure that the administrative functions are performed if a public law contract is terminated unilaterally or another reason becomes evident which prevents a person from continuing the performance of the administrative functions.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 86. Suspension and withdrawal of authority**

If an activity of a field inspector relating to their authority does not comply with the requirements, the Agricultural Board will suspend the authority and set the person a term for elimination of deficiencies. If the deficiencies are not eliminated during the term, the Agricultural Board will withdraw the authority and terminate the public law contract unilaterally.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 87. Authorised seed sampler**

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

(2) A seed sampler who enters into an employment contract with a person engaged in the production or marketing of seed is permitted to take seed samples only from the seed lots of their employer, unless the applicant for certification and the Agricultural Board have agreed otherwise.

[RT I 2009, 34, 224 – entry into force 01.01.2010]



## **§ 88. Requirements for applicant for rights of seed sampler**

A person applying for the rights of a seed sampler:

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

## **§ 89. Application for authority of seed sampler**

(1) In order to be authorised as a seed sampler, the applicant will submit the following to the Agricultural Board:

- 1) an application to be granted authority;
- 2) their curriculum vitae;
- 3) a copy of a document certifying the completion of the seed sampler training.

(2) The Agricultural Board will review the documents specified in subsection (1) of this section and will assess the compliance of the applicant with the requirements established for seed samplers. The Agricultural Board has the right to verify the authenticity of the documents submitted by the applicant and, if necessary, request additional information and documents.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 90. Authorisation as seed sampler**

(1) The Agricultural Board will authorise persons as seed samplers and enter into public law contracts with them for the performance of administrative functions.

(2) The Agricultural Board will decide to authorise a person or to refuse to authorise a person within 30 working days after the receipt of a corresponding application.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 91. Duties of seed sampler**

A seed sampler is required to:

- 1) impartially perform the duties vested in them by their authority;
- 2) close the sales package or contained of a seed lot subject to certification with a security sticker of the Agricultural Board;
- 3) guarantee that the order forms, labels of sample bags and security stickers are filled out in a lawful, compliant and proper manner;
- 4) maintain business and professional secrets which become known to them during collecting samples;
- 5) at the request of the Agricultural Board, submit all documents needed for supervision over the person's activity relating to the authority to the Agricultural Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 92. Termination, suspension and withdrawal of authority**

(1) Authority terminates in the event of:

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

(2) A seed sampler has the right to surrender their authority by notifying the Agricultural Board thereof by an unregistered letter at least 30 days in advance.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

(3) If the activities of a seed sampler relating to their authority do not comply with the requirements, the Agricultural Board will have the right to:

- 1) withdraw the authority and unilaterally terminate the public law contract;
- 2) suspend the authority and set the seed sampler a time limit for elimination of deficiencies. If the deficiencies are not eliminated during the term, the Agricultural Board will withdraw the authority and terminate the public law contract unilaterally.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

## **§ 93. Remuneration of authorised field inspector and authorised seed sampler**

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

(2) Authorised field inspectors and authorised seed samplers are prohibited to receive remuneration for services financed from the state budget.

(3) Remuneration for services financed from the state budget will be paid through the budget of the Agricultural Board.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

## **Chapter 5 PACKAGING**

### **§ 94. Packaging of seed and propagating or cultivating material**

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

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

### **§ 95. Licence and notification obligation of seed packager**

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1) An activity licence is required for packaging the seed of forest trees.

(2) To package seed not specified in subsection (1) of this section, a notice of economic activities is submitted to the Agricultural Board before the commencement of operations.

(3) In addition to the information required in the General Part of the Economic Activities Code Act, a notice of economic activities must contain the following information:

1) whether one intends to engage in packaging cereal seed, fodder plant seed, seed of oil or fibre crops, beet seed or vegetable seed, in packaging fodder plant seed, beet seed or vegetable seed into small packaging or in packaging mixtures of cereal seed, fodder plant seed, seed of oil or fibre crops or vegetable species;

2) measures to be taken and the manner of storage of seed for prevention of the admixture of the seed of different species and varieties, generations, lots or field harvests;

3) a brief description of the technology of the packaging process;

4) whether, in addition to the seed prescribed for certification, the enterprise produces and packages the commercial seed of fodder plant, oil crops or fibre crops, the standard seed of vegetable species or the seed of genetic resources;

5) measures taken and substances used for cleaning and disinfecting rooms, devices, tools and other required equipment;

6) pest control measures;

7) the name and contact details of the person in charge of packaging seed; in the event of packaging of a fodder plant seed mixture, the name and contact details of the person in charge of the production of a compliant seed mixture;

8) the designed and planned or actual handling capacity, including the capacity of the storage facilities;

9) measures taken for the collection, removal and rendering harmless of waste and non-compliant seed.

(4) The details of the notice of economic activities will be entered in the plant health register established on the basis of subsection 30 (1) of the Plant Protection Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

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

(1) In order to engage in the packaging of seed, a person must have a building or a room that complies with the requirements (hereinafter *packaging facility*) as well as devices, tools and other required equipment suitable for the proper packaging of seed into the sales packaging, the technological scheme of the packaging process, which indicates the parameters that are of importance from the point of view of prevention of the admixture of seed lots as well as a layout of the premises along with a spatial plan of the devices and equipment, indicating the paths of movement of the seed, non-compliant seed and waste, and the person in charge of packaging.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>1</sup>) The building or room used for packaging seed must comply with the following requirements:

1) have a microclimate suitable for storing seed;

2) allow for the packaging of seed in a manner that precludes the admixture of the seed of different species, varieties, generations, lots or field harvests;

3) allow for the packaging of seed in a room separate from the storage of seed or in a separated part of the room where there are devices and tools, including verified scales, for bringing the seed into a condition fit for sale and packaging the seed into sales packaging.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>2</sup>) If a person wishes to use an automatic sampling device, the person must have an automatic sampling device that has been declared compliant by an ISTA accredited laboratory, hold a document proving it and the technological scheme of automatic sampling, and must have appointed a person in charge of the compliance and use of the device. The person must keep account of the use and maintenance of the automatic sampling device.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>3</sup>) To use an automatic sampling device, a person must, not later than seven days before the commencement of use, submit a notice along with the documents and data specified in subsection (1<sup>2</sup>) of this section to the Agricultural Board, indicating the plant species or the group of plant species with respect to which the automatic sampling device is to be used.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>4</sup>) If a person wishes to print labels, the person must have a device and tools for printing a proper label and must have appointed a person in charge of printing labels. The person must keep account of the printing of labels.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>5</sup>) To print labels, a person must, not later than seven days before the commencement of printing, submit a notice along with the information specified in subsection (1<sup>4</sup>) of this section to the Agricultural Board, indicating the plant species or the group of plant species and the seed category for the packaging of which the labels will be printed.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1<sup>6</sup>) The person in charge of the packaging of the standard seed, the seed of a preservation variety, the standard seed of a preservation variety and the seed of a variety of vegetable species derived for growing in special conditions must:

- 1) not later than seven days before the commencement or termination of the packaging of seed into sales packaging, inform the Agricultural Board of the commencement and termination dates;
  - 2) take a seed sample from each lot of the standard seed, the seed of a preservation variety, the standard seed of a preservation variety and the seed of a variety derived for growing in special conditions, which has been packaged into sales packaging, and preserve these samples for at least two years.
- [RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) The requirements for packaging the seed of agricultural plants and vegetables will be established by the Minister of Agriculture.

(3) The requirements for the packaging premises of the seed of forest trees will be established by the Minister of the Environment.

## **§ 97. Applying for activity licence for packaging seeds of forest trees**

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1) The Environmental Board reviews applications for licences for packaging the seeds of forest trees.

(2) In addition to the information required in the General Part of the Economic Activities Code Act, an application for an activity licence for packaging the seeds of forest trees must contain the following information:

- 1) the name of the tree species whose seeds will be packaged;
- 2) the buildings and their location, the name and marking of the existing equipment and the number of employees for the purpose of describing the existing packaging base.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

## **§ 97<sup>1</sup>. Object of activity licence for packaging seeds of forest trees**

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

An undertaking will be given an activity licence for packaging the seeds of forest trees if the undertaking has:

- 1) a separate room for weighing and packaging seed;
- 2) a refrigerated chamber equipped with a cooling system or an ordinary refrigerator for storing and preserving seed;
- 3) verified scales for determining a mass of up to 10 kilograms with the accuracy of 0.1 grams;

4) in the case of the initial compiler of the seed lot, the cone processing technology that precludes the admixture of lots.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

#### **§ 97<sup>2</sup>. Secondary conditions of activity licence for packaging seeds of forest trees**

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

The list of packaged seeds per tree species and the date of expiry are annexed to an activity licence for packaging the seeds of forest trees as secondary conditions.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

#### **§ 98. Suspension of licence to package seed**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

#### **§ 99. Revocation of licence to package seed**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

#### **§ 100. Requirements for closing sales packages**

(1) Certified seed and seed potatoes are packaged and the sales packaging is closed and marked under the supervision of the Agricultural Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(2) [Repealed – RT I 2008, 23, 150 – entry into force 01.07.2008]

#### **§ 101. Marking requirements**

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

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(2) For the seed of agricultural plant and vegetable species, the producer or supplier may print the requisite information on the label or sales package in accordance with the prescribed procedure.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(3) The sales packaging of other seed must be accompanied, in accordance with the established requirements, by a compliant label issued by the Agricultural Board or the Environmental Board or a document issued by the producer. Other propagating or cultivating material lots must be accompanied by a product description or a document issued by the supplier which, for plant species concerning which a plant passport is issued, must also set out the requisite data contained in the plant passport.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(4) The requirements for the packaging of and closure of sales packages of the seed, seed potatoes and genetic resources of a variety intended for the maintenance of the seeds, seed potatoes and genetic resources and the requirements for the sales packages intended for the preservation of the seed, seed potatoes and genetic resources of a variety, requirements for labelling seed lots and propagating material of horticultural plants, procedure for issue of documents certifying certification of inspection, and substantive and formal requirements for labels by plant species or groups of plant species will be established by the Minister of Agriculture.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

#### **§ 102. Preservation of data and keeping records**

(1) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

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

## **Chapter 6**

# MARKETING

## § 103. Marketing of seed and propagating and cultivating material

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

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

## § 104. Requirements for seed and propagating and cultivating material to be marketed

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

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

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

(3<sup>1</sup>) The seed and propagating or cultivating material of a variety intended for conservation of genetic resources must comply with the quality requirements established based on subsections 6<sup>1</sup> (3) and (4) of this Act in order to be marketed.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(4) The requirements for the marketing of seed and propagating material and the seed and propagating material intended for conservation of genetic resources will be established by the Minister of Agriculture.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

(6) For the purpose of establishing more detailed requirements, the Minister of Agriculture may issue regulations in order to implement decisions of the European Commission, which permit to market seed and seed potatoes which are not in compliance with the requirements of this Act and legislation established on the basis thereof.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(7) If, pursuant to subsection (6) of this section, seed and seed potatoes may be marketed only with the permission of a competent authority, the Agricultural Board will decide the to grant a marketing authorisation or to refuse to grant it.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

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

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

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

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

(3<sup>1</sup>) A lot of the seed and propagating material specified in subsection 104 (3<sup>1</sup>) of this Act will be accompanied by a document in proof of its origin and species and where required, also its variety and quality.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

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

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

(6) In order to make seed rapidly available, the primary supplier of seed may place on the market seed in respect to which a certification procedure has already been commenced but before a document attesting certification has been issued concerning the seed, provided that an analytical report attesting the quality of the seed but not containing any information concerning the germination rate of the seed has been issued with regard to the seed. Such seed lot will bear a separate label of the supplier containing the name, address and lot number. The supplier will guarantee at least minimum germination rate for the marketed seed. After the certification of the seed is finished and a document in proof of certification is issued, the document in proof of certification will be sent to the buyer of the seed.

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

[RT I 2009, 3, 15 – entry into force 01.02.2009]

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

#### **§ 106. Marketing restrictions**

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

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

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

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

#### **§ 106<sup>1</sup>. Marketing seed not satisfying requirements in respect of minimum germination**

(1) The seed of a category of certified seed that is not satisfying the requirements in respect of the minimum germination may be certified and marketed in accordance with Article 2(3) of Commission Regulation (EC) No. 217/2006 laying down rules for the application of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination (OJ L 38, 09.02.2006, pp. 17–18) on the basis of temporary authorisation by the European Commission during a period determined therein.

(2) The Ministry of Agriculture is the contact point for the purposes of Article 2(1) of Commission Regulation (EC) No. 217/2006.

(3) The owner, representative or maintainer of a variety who wishes to market seed of a certified category not satisfying the requirements in respect of the minimum germination will submit to the contact point specified in subsection (2) of this section an application containing the information specified in Article 3 of Commission Regulation (EC) No. 217/2006.

(4) The contact point will forward an application to the European Commission within five working days from its receipt.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

### **§ 106<sup>2</sup>. Marketing seed and propagating material of variety intended for conservation of genetic resources**

(1) The seed and seed potatoes of a variety intended for conservation of genetic resources, except the seed of a variety of an agricultural plant species essentially derived for growing in special conditions, may be marketed in the permitted quantity only in the region of origin of the variety.

(2) The quantity of the seed of cereals, fodder crops, oil crops, fibre crops, vegetables and beets intended for conservation of genetic resources, which have been granted marketing authorisation during the calendar year, will not exceed 0.5% of the quantity of the seed of the same plant species sown in the region of origin in the calendar year immediately preceding the year of marketing or the quantity required for sowing in 100 hectares, depending on which quantity is higher.

(3) In the event of such plant species as field peas, common wheat, common barley, maize, potato, rape and sunflower, the quantity of the seed or seed potatoes of the variety intended for conservation of genetic resources, which have been granted marketing authorisation during the calendar year, will not exceed 0.3% of the quantity of the seed or seed potatoes of the same plant species sown in the region of origin in the calendar year immediately preceding the year of marketing or the quantity required for sowing in 100 hectares, depending on which quantity is higher.

(4) The quantity of the seed or seed potatoes of a plant species specified in subsections (2) and (3) of this section and intended for conservation of genetic resources, which have been granted marketing authorisation during the calendar year, will not exceed 10% of the quantity of the seed or seed potatoes of the same plant species sown in the region of origin in the calendar year immediately preceding the year of marketing or the quantity required for sowing in 100 hectares, depending on which quantity is higher.

(5) The quantity of the seed of a variety of a vegetable plant species intended for conservation of genetic resources, which has been granted marketing authorisation during the calendar year, except for that of the seed of a variety of a vegetable plant species essentially derived for growing in special conditions, will not exceed the quantity of the seed required for production of the vegetable plant species in the hectares determined for the plant species.

(6) The annual quantities of the seed and seed potatoes of a variety intended for preservation of genetic resources authorised for marketing will be established by the Minister of Agriculture on the basis of statistical data, in adherence to the requirements provided for in subsections (2) to (5) of this section, including the sowing limit established per hectare of agricultural land.

(7) The seed of a variety of a vegetable plant species intended for conservation of genetic resources essentially derived for growing in special conditions may be marketed only in such a sales packaging where the mass of the seed contained in the packaging does not exceed the maximum net mass of the sales packaging established with regard to the plant species.

(8) The maximum net mass of sales packaging of the seed of varieties of vegetable plant species intended for conservation of genetic resources essentially derived for growing in special conditions will be established by the Minister of Agriculture based on plant species.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

### **§ 106<sup>3</sup>. Submission of information on variety intended for conservation of genetic resources and determination of permitted quantities**

(1) For the purpose of determining the intended production and, where necessary, the quantity authorised for marketing, of a variety intended for conservation of genetic resources, the producer of the seed and the supplier of the seed potatoes will, by April 15, submit to the Ministry of Agriculture information on the size of the sown area planned for this year and the location of the field based on plant species and varieties.

(2) If, according to the information specified in subsection (1) of this section, the limits established on the basis of subsection 106<sup>2</sup>(5) will likely be exceeded, the Agricultural Board will, on the basis of the information specified in subsection (1) of this section and with regard to the species and varieties, determine the quantities authorised to be marketed by the producer of the seed and the supplier of the seed potatoes of a variety intended for conservation of genetic resources. Quantities will be determined proportionally between the producers or suppliers of a variety intended for conservation of genetic resources, depending on the plant species and the variety. The Agricultural Board will, by May 1, make a decision on quantities of the seed and seed potatoes of a variety intended for conservation of genetic resources authorised to be marketed.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

#### **§ 106<sup>4</sup>. Submission of information on preservation mixture and determination of quantity of preservation mixture authorised to be marketed**

(1) During a calendar year the seed of a preservation mixture may be marketed in Estonia to the extent of 5% of the quantity of the mixture of fodder plant seed marketed in Estonia over the first ten calendar months of the calendar year immediately preceding the year of marketing.

(2) Before the start of the production period, the producer of a preservation mixture will communicate to the Agricultural Board the quantity of the seed of the preservation mixture for which the producer intends to apply for preservation mixture marketing authorisation, the size and location of the planned collection site and the planned year of marketing.

(3) Before the start of the production period, the producer of a preservation mixture of grown plant species will communicate to the Agricultural Board, in addition to the information specified in subsection (2) of this section, the size and location of the planned site.

(4) If, according to the information submitted on the basis of subsection (2) of this section, producers plan on marketing the seed of a preservation mixture in a quantity higher than the one permitted under subsection (1) of this section, the Agricultural Board will reduce the quantity of the seed of the preservation mixture authorised to be marketed proportionally with regard to each producer.

(5) The Agricultural Board will make the decision specified in subsection (4) of this section before the start of the year of marketing.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

#### **§ 106<sup>5</sup>. Marketing preservation mixture**

(1) In order to market a preservation mixture, a person must hold a preservation mixture marketing authorisation. A preservation mixture marketing authorisation will be granted for a specified period and not for longer than one calendar year.

(2) A preservation mixture may be marketed only in the region which the relevant mixture is naturally connected to (hereinafter *region of origin of preservation mixture*) and in the quantity specified in the preservation mixture marketing authorisation.

(3) The region of origin of a preservation mixture will be determined by the Agricultural Board upon granting preservation mixture marketing authorisation.

(4) The manager of a protected area will grant consent regarding the collection site of the seed of a preservation mixture to be marketed, the seed of the species contained in the preservation mixture and the species composition of the mixture.

(5) The Agricultural Board will decide whether to grant a preservation mixture marketing authorisation. The Agricultural Board will refuse to grant a preservation mixture marketing authorisation if:

- 1) the preservation mixture does not comply with the requirements;
- 2) the consent of the manager of the protected area specified in subsection (4) of this section is missing;
- 3) the quantity of the seed of the preservation mixture authorised to be marketed during the calendar year has been exhausted;
- 4) the person has not, under subsection 106<sup>4</sup>(2) of this Act, informed the Agricultural Board of the planned seed quantity of the preservation mixture to be marketed, the size and location of the collection site or the planned year of marketing.

(6) The procedure for application for preservation mixture marketing authorisation and for processing applications, including the requirements for the contents of the application and authorisation, will be established by a regulation of the Minister of Agriculture.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

#### **§ 107. Keeping record**

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

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) The producer of seed or the supplier of propagating material will inform the Agricultural Board about the quantities of the seed, preservation mixture and propagating material of a variety intended for conservation of genetic resources marketed during the calendar year by January 31 of the year following the calendar year.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(3) A person specified in subsection 72 (4) of this Act and a person engaged in importing a mixture of fodder plant seed or in carrying it from another Member State to Estonia will inform the Agricultural Board of the



quantity of the mixture of fodder plant seed marketed in Estonia in the ten first calendar months of the calendar year by December 1 of the same year.  
[RT I, 09.11.2011, 3 – entry into force 01.01.2012]

## **Chapter 7**

### **IMPORT AND EXPORT**

#### **§ 108. Import of seed and propagating and cultivating material**

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

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

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

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

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

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

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

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

(1) Prior to the import of cultivating material, the importer will apply, in the event of a plant species subject to certification, for permission from the Environmental Board for the import of a lot of cultivating material of such plant species.

[RT I 2009, 3, 15 – entry into force 01.02.2009]

(2) Prior to the import of seed of a plant species subject to certification, the importer will notify the Agricultural Board of the seed lot to be imported.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

#### **§ 111. Requirements for seed and propagating and cultivating material to be imported**

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

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

#### **§ 112. Import for plant breeding, scientific research, growing trials or official trials**

(1) A person or agency entitled thereto under this Act is allowed to import a lot of seed and propagating material for the purpose of plant breeding, scientific research, growing trials or official trials based on a written permit issued by the Agricultural Board. The import of a lot of cultivating material for the purpose of

breeding of tree crops, scientific research or official trials is permitted based on a written permit issued by the Environmental Board.

[RT I 2009, 34, 224 – entry into force 01.01.2010]

(2) The authority specified in subsection (1) of this section will make a decision to grant or to refuse to grant permission to import a lot of seed or propagating material for the purposes of plant breeding, scientific research, production trials or official trials within 15 working days after the date of receipt of the corresponding application and all the documents needed for making the decision.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(3) The authority specified in subsection (1) of this section will refuse to issue the permission to import if:

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

- 1) the person or agency is not entitled to it under this Act;
- 2) the seed or propagating material is harmful to plant health, human health or the environment;
- 3) the quantity of the seed or propagating material does not comply with the test methodology or exceeds the limit established under subsection 32 (4) of this Act;
- 4) the person or agency has knowingly submitted false information;
- 5) the person or agency has unlawfully influenced the Agricultural Board or the Environmental Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

[RT I 2006, 28, 211 – entry into force 01.07.2006]

### **§ 113. Export of seed not yet finally certified**

[Repealed – RT I, 09.11.2011, 3 – entry into force 19.11.2011]

## **Chapter 8 STATE AND ADMINISTRATIVE SUPERVISION**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

### **§ 114. State and administrative supervision**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) The state and administrative supervision over this Act and the legislation established on the basis thereof is exercised by:

- 1) the Agricultural Board, regarding seed and propagating material;
- 2) the Environmental Board, regarding cultivating material;
- 3) the Tax and Customs Board, in the event of import of seed and propagating and cultivating material pursuant to the provisions of Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50).

(2) Administrative supervision over public law contracts concluded in accordance with subsection 82 (1) and 90 (1) of this Act is exercised by the Agricultural Board.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

### **§ 115. Exercising state supervision**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) The law enforcement authority may, for the purpose of exercising the state supervision provided for in this Act, take special measures of state supervision provided for in §§ 30, 32, 49 and 50 of the Law Enforcement Act on the grounds and in accordance with the procedure provided for in the Law Enforcement Act.

(2) If in the course of supervision, the law enforcement authority has justified reason to believe that the marketed seed lot or the lot of the propagating or cultivating material does not meet the quality requirements established for seed and propagating or cultivating material, it will suspend the marketing of the seed lot or the lot of the propagating or cultivating material. The marketing of the seed lot or the lot of the propagating or cultivating material will be suspended until the results of the analysis of the sample taken from such lot are obtained.

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

(4) If in the course of exercising state supervision it is identified by way of visual inspection that the lot of the marketed seed and propagating or cultivating material does not comply with the requirements established for marketed seed and propagating or cultivating material, but the lot can be brought into compliance with the requirements, the marketing of the lot of the seed and the propagation or cultivating material will be suspended until the lot has been brought into compliance with the requirements. If the lot of the seed or the propagating or cultivating material cannot be brought into compliance with the requirements, the law enforcement authority will make a decision to prohibit the marketing of the relevant lot.

(5) The law enforcement authority may take samples at the expense of the person upon inspection of a movable. If the inspected movable is no longer fit for ordinary use following the inspection, the cost of the movable or the cost of restoring the movable for ordinary use will not be compensated to the person.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 116. Official uniform**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

While exercising state supervision, an official of the Agricultural Board wears the official uniform.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 117. State supervision over maintenance of variety**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) Supervision over the maintenance of a variety is exercised by the Agricultural Board. State supervision over the maintenance of a variety of an agricultural plant or vegetable species entered in the variety list consists of the verification of the varietal identity of the variety and the identity of the components of the variety based on the information and documents concerning the maintenance of the variety provided by the maintainer of the variety, as well as of laboratory tests carried out with the seed or propagating material of the variety, and of post-control trials and other field trials.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(4) [Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

## **CHAPTER 8<sup>1</sup>** **TAKING SAMPLES AND NOTIFICATION**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

#### **§ 118. Taking and analysing samples**

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) In the course of state supervision and other proceedings, the Agricultural Board and the Environmental Board have the right to take samples of the seed and of the propagating and cultivating material at the expense of the producer or supplier for the purpose of inspecting whether the requirements of this Act and the legislation established on the basis thereof are complied with.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

(3) [Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(4) [Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(4<sup>1</sup>) [Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

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

(7) If a person wants the law enforcement authority to take account of the results of the analysis of the repeat sample specified in subsection (6) of this section, the person must submit to the law enforcement authority an application for collecting a repeat sample.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

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

### **§ 119. Collecting samples for participation in comparative trials of European Union**

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

(2) For participation in comparative trials of the European Union, the Agricultural Board or the Environmental Board will collect a necessary amount of samples from the seed and the propagating or cultivating material at the expense of the person.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

### **§ 120. Notification for post-control trials**

In order to enable post-control trials to be organised, the person must, before the division of the lot, notify the Agricultural Board of a seed lot brought into Estonia for propagation purposes from the European Union or a state declared to be equivalent thereto.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

### **§ 121. Precept**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

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

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (entry into force amended – RT I, 22.12.2013, 1)]

### **§ 123. Notification**

Regarding seed and plant propagating material, the Agricultural Board and, regarding cultivating material, the Environmental Board must notify the supervisory authorities of other Member States, the European Commission and the CPVO in accordance with the legislation of the European Union.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

## **Chapter 9 LIABILITY**

### **§ 124. Marketing of seed and propagating or cultivating material non-compliant with requirements**

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(1) Marketing of seed and propagating or cultivating material which does not meet the requirements is punishable by a fine of up to 200 fine units.

[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

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

(1) Violation of the requirements for the packaging of seed and propagating or cultivating material, or the requirements for labelling sales packages is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1300 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

### **§ 126. Failure to comply with notification obligation**

(1) Failure to comply with the notification obligation is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

### **§ 127. Failure to comply with production requirements and to perform self-control obligation**

(1) Failure to comply with production requirements and to perform the self-control obligation is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

### **§ 128. Failure to perform obligations of field inspector**

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

### **§ 129. Failure to perform obligations of seed sampler**

Failure to perform or improper performance of the obligations of a seed sampler is punishable by a fine of up to 100 fine units.

### **§ 130. Procedure**

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to the misdemeanours provided for in §§ 124-129 of this Act.

(2) The extrajudicial proceedings of the misdemeanours provided for in §§ 124-129 of this Act will be conducted by:

- 1) the Agricultural Board;  
[RT I 2009, 34, 224 – entry into force 01.01.2010]
- 2) the Environmental Board;  
[RT I 2009, 3, 15 – entry into force 01.02.2009]
- 3) the Consumer Protection Board.

## **Chapter 10 IMPLEMENTING PROVISIONS**

### **§ 131. Varieties register and Variety List**

[RT I 2008, 23, 150 – entry into force 01.07.2008]

(1) The register of protected varieties established under subsection 8 (1) of the Plant Variety Rights Act is deemed to be the Plant Varieties Register specified in subsection 57 (1) of this Act.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) The Agricultural Board will enter, on the same conditions and for the same term without a separate application or state fee, the varieties included in the Variety List compiled on the basis of the Seed and Plant Propagating Material Act in the Variety List compiled on the basis of this Act as of the date of entry into force of this Act.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

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

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

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

### **§ 133. Validity of licences issued**

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

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

### **§ 134. Third countries from which import of propagating material of fruit species is permitted**

(1) The third countries specified in subsection 109 (3) of this Act will, until 31 December 2018, be determined by the Agricultural Board.  
[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2) The Agricultural Board will compile a list of third countries from which the import of the propagating material of certain fruit species is permitted, and will publish such list on its website.

(3) The Agricultural Board will immediately notify the European Commission and other Member States of the decisions made based on the decision specified in subsection (1) of this section.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(1) Based on the Decision of the European Commission specified in Article 16(2) of Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 157, 10.06.1992, pp. 1-9) and taking account of the requirements of the same Directive regarding vegetable propagating material, production thereof, the duties of suppliers, the varietal identity and characteristics of the propagating material, plant health, substratum, packaging, procedure for checks and marking and closing of packages, the Agricultural Board will determine, until 31 December 2102, the third states specified in subsection 109 (4) of this Act where the produced vegetable propagating material and the requirements for the production thereof comply with the requirements established in the European Union.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

(2) The Agricultural Board will compile a list of third countries from which the import of the propagating material of certain vegetable species is permitted, and will publish such list on its website.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

(3) The Agricultural Board will immediately notify the European Commission and other Member States of the decisions made based on the decision specified in subsection (1) of this section.  
[RT I 2009, 34, 224 – entry into force 01.01.2010]

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

(1) The Environmental Board will compile a list of third countries from which the import of the cultivating material of certain plant species is permitted, and will publish such list on its website.

(2) The Environmental Board will immediately notify the European Commission and other Member States of third countries from which the import of the cultivating material of certain plant species is permitted.  
[RT I 2009, 3, 15 – entry into force 01.02.2009]

## **§ 136<sup>1</sup>. Implementation of provisions regulating fruit species**

(1) As of 1 January 2019 only such seed and propagating material of a known variety of a fruit species whose variety has been registered may be marketed.

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(2) A variety of a fruit species is considered known if:

- 1) it has been registered in Estonia or in another Member State;
- 2) its registration application has been submitted in Estonia or in another Member State;
- 3) an application for the plant variety right has been submitted with regard to it in Estonia or in another Member State;
- 4) it has been recognised in Estonia or in another Member State before 30 September 2012 on the condition that it has a variety description complying with the requirements;

[RT I, 09.11.2011, 3 – entry into force 19.11.2011]

(3) The propagating material of a known variety of a registered fruit species, which complies with the quality requirements of the variety and has been produced from a parent plant grown before 30 September 2012 may be marketed until 31 December 2018.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

(4) Until relevant amendments are made, references to Directives repealed by Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 08.10.2008, pp. 8-22) will be considered as references to Council Directive 2008/90/EC.

[RT I 2010, 35, 193 – entry into force 08.07.2010]

**§ 137.–§ 141.**[Omitted from this text.]

## **§ 142. Implementing provision**

Legislation adopted on the basis of the former Plant Variety Rights Act and the Seed and Plant Propagating Material Act remain in force following the entry into force of this Act until they are repealed or until new legislation enters into force on the basis of this Act, but not for longer than 1 May 2006.

## **§ 143. Entry into force of Act**

(1) This Act will enter into force on 1 January 2006.

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

<sup>1</sup> Council Directive 66/401/EEC on the marketing of fodder plant seed (OJ P 125, 11.07.1966, pp. 2298–2308), amended by Directives 69/63/EEC (OJ L 48, 26.02.1969, pp. 8–12), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978, pp. 23–29), 78/386/EEC (OJ L 113, 25.04.1978, pp. 1–12), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, pp. 1–4), 80/754/EEC (OJ L 207, 09.08.1980, p. 36), 81/126/EEC (OJ L 67, 12.03.1981, pp. 36–37), 82/287/EEC (OJ L 131, 13.05.1982, pp. 24–26), 85/38/EEC (OJ L 16, 19.01.1985, pp. 41–42), 86/155/EEC (OJ L 118, 07.05.1986, pp. 23–27), 87/120/EEC (OJ L 49, 18.02.1987, pp. 39–43), 87/480/EEC (OJ L 273, 26.09.1987, pp. 43–44), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 89/100/EEC (OJ L 38, 10.02.1989, p. 36), 90/654/EEC (OJ L 353, 17.12.1990, pp. 48–56), 92/19/EEC (OJ L 104, 22.04.1992, pp. 61–62), 96/18/EC (OJ L 76, 26.03.1996, pp. 21–22), 96/72/EC (OJ L 304, 27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, pp. 1–26), 98/96/EC (OJ L 25, 01.02.1999, pp. 27–33), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/55/EC (OJ L 114, 21.04.2004, p. 18), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33), 2007/72/EC (OJ L 329, 14.12.2007, pp. 37–39) and 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70); Council Directive 66/402/EEC on the marketing of cereal seed (OJ P 125, 11.07.1966, pp. 2309–2319), amended by Directives 69/60/EEC (OJ L 48, 26.02.1969, pp. 1–3), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/101/EEC (OJ L 2, 01.01.1973, pp. 1–27), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978, pp. 23–29), 78/387/EEC (OJ L 113, 25.04.1978, pp. 13–19), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, pp. 1–4), 81/126/EEC (OJ L 67, 12.03.1981, pp. 36–37), 85/3768/EEC (OJ L 362, 31.12.1985, pp. 8–16), 86/155/EEC (OJ L 118, 07.05.1986, pp. 23–27), 86/320/EEC (OJ L 200, 23.07.1986, p. 38), 87/120/EEC (OJ L 49, 18.02.1987, pp. 39–43), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 88/506/EEC (OJ L 274, 06.10.1988, p. 44), 89/2/EEC (OJ L 5, 07.01.1989, p. 31), 90/623/EEC (OJ L 333, 30.11.1990, p. 65), 93/2/EEC (OJ L 54, 05.03.1993, p. 20), 95/6/EC (OJ L 67, 25.03.1995, pp. 30–32), 96/72/EC (OJ L 304,

27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, pp. 1–26), 98/96/EC (OJ L 25, 01.02.1999, pp. 27–33), 99/08/EC (OJ 50, 26.02.1999, p. 26), 1999/54/EC (OJ L 142, 05.06.1999, pp. 30–31), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33), 2006/55/EC (OJ L 159, 13.06.2006, p. 13), 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70); Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 157, 10.06.1992, pp. 10–18), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2003/111/EC (OJ L 311, 27.11.2003, pp. 12–13), Decision 2005/54/EC (OJ L 22, 26.01.2005, p. 16) and Regulation 806/2003/EC (OJ L 122, 16.05.2003, pp. 1–35); Commission Directive 93/48/EEC setting out the schedule indicating the conditions to be met by fruit plant propagating material and fruit plants intended for fruit production, pursuant to Council Directive 92/34/EEC (OJ L 250, 07.10.1993, pp. 1–8); Commission Directive 93/49/EEC setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC (OJ L 250, 07.10.1993, pp. 9–18), amended by Directive 1999/67/EC (OJ L 164, 30.06.1999, p. 78); Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 92/33/EEC (OJ L 250, 07.10.1993, pp. 19–28); Commission Directive 93/62/EEC setting out the implementing measures concerning the supervision and monitoring of suppliers and establishments pursuant to Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 250, 07.10.1993, pp. 29–30); Commission Directive 93/64/EEC setting out the implementing measures concerning the supervision and monitoring of suppliers and establishments pursuant to Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 250, 07.10.1993, pp. 33–34); Commission Directive 93/79/EEC setting out additional implementing provisions for lists of varieties of fruit plant propagating material and fruit plants, as kept by suppliers under Council Directive 92/34/EEC (OJ L 256, 14.10.1993, pp. 25–31); Council Directive 98/56/EC on the marketing of propagating material of ornamental plants (OJ L 226, 13.08.1998, pp. 16–23), amended by Regulation 806/2003/EC (OJ L 122, 16.05.2003, pp. 1–35) and Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28); Commission Directive 1999/66/EC setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56/EC (OJ L 164, 30.06.1999, pp. 76–77); Commission Directive 1999/68/EC setting out additional provisions for lists of varieties of ornamental plants as kept by suppliers under Council Directive 98/56/EC (OJ L 172, 08.07.1999, pp. 42–43); Council Directive 1999/105/EC on the marketing of forest reproductive material (OJ L 11, 15.01.2000, pp. 17–40); Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.07.2002, pp. 1–11), amended by Regulation 1829/2003/EC (OJ L 268, 18.10.2003, pp. 1–23); Council Directive 2002/54/EC on the marketing of beet seed (OJ L 193, 20.07.2002, pp. 12–32), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28) and 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33); Council Directive 2002/55/EC on the marketing of vegetable seed (OJ L 193, 20.07.2002, pp. 33–59), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33), 2006/124/EC (OJ L 339, 06.12.2006, pp. 12–15) and 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70) and Regulation (EC) No. 1829/2003/EC (OJ L 268, 18.10.2003, pp. 1–23); Council Directive 2002/56/EC on the marketing of seed potatoes (OJ L 193, 20.07.2002, pp. 60–73), amended by Decision 2003/66/EC (OJ L 25, 30.01.2003, p. 42), Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28) and Decisions 2003/66/EC (OJ L 25, 30.01.2003, p. 42), 2005/908/EC (OJ L 329, 16.12.2005, p. 37) and 2008/973/EC (OJ L 345, 23.12.2008, p. 90); Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (OJ L 193, 20.07.2002, pp. 74–97) amended by Directives 2002/68/EC (OJ L 195, 24.07.2002, pp. 32–33), 2003/45/EC (OJ L 138, 05.06.2003, pp. 40–44), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33) and 2009/74/EU (OJ L 166, 27.06.2009, pp. 40–70); Commission Directive 2006/47/EC laying down special conditions concerning the presence of *Avena fatua* in cereal seed (OJ L 136, 24.05.2006, pp. 18–20); Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties (OJ L 162, 21.06.2008, pp. 13–19); Council Directive 2008/72/EU on the marketing of vegetable propagating and planting material, other than seed (OJ L 205, 01.08.2008, pp. 28–39); Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 08.10.2008, pp. 8–22); Commission Regulation 2009/145/EU providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties (OJ L 312, 27.11.2009, pp. 44–54); [RT I 2010, 35, 193 – entry into force 08.07.2010] Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment (OJ L 228, 31.08.2010, pp. 10–14). [RT I, 09.11.2011, 3 – entry into force 19.11.2011]