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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 3 of subsection 1 of § 65 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 enters 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 part 01.10.2012
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date 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 part 01.01.2012
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
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the ministers' official titles have been replaced on the basis of subsection 4 of § 107 <sup>3</sup> of the Government of the Republic Act.
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, on the basis of subsection 2 of § 107 <sup>4</sup> of the Government of the Republic Act the words 'Ministry of Agriculture' have been replaced with the words 'Ministry of Rural Affairs.'
31.05.2017	RT I, 16.06.2017, 1	01.07.2017
06.12.2017	RT I, 28.12.2017, 2	01.02.2018
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019

# Chapter 1

## GENERAL PROVISIONS

### § 1. Scope of application of Act

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

[RT I, 19.03.2019, 7 – entry into force 01.01.2020]

(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 plant variety rights 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 are established by the minister responsible for the field.

### § 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 are established by the minister responsible for the field.

(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 the cultivating material, requirements for the basic material and quality of the cultivating material, and the procedure for keeping account of the basic material are established by a regulation of the minister responsible for the field.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 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 in accordance with 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 responsible for the field.

(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 responsible for the field.

#### **§ 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 1 of § 2 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 are established by the minister responsible for the field.

[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 1, 2, 4 or 6 of subsection 1 of § 4 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 are established by a regulation of the minister responsible for the field.

[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 commences 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 is 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]

(3) Where a decision made on the basis of this Act is delivered by post, it may be delivered by unregistered post, registered post or registered post with advice of delivery.

[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

#### **§ 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 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>) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2<sup>2</sup>) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 are established by the minister responsible for the field.

(4) Upon registration of a variety, the owner of the variety right may also apply for variety rights or for the entry of the variety in the variety list. In the event of a variety intended for conservation of genetic resources, the maintainer of the variety may apply for the entry of the variety in the variety list along with the registration of the variety.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 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 plant variety rights 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 plant variety rights 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.

(2<sup>1</sup>) A variety of a fruit or berry species marketed in Estonia or another Member State before 30 September 2012 that as of that date had a variety description that complied with the requirements or that had been registered by that date is considered to be a known variety as well.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 is 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 2 of § 8 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 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 variety intended for conservation of genetic resources no registration trials are carried out where the compliance of the variety can be identified on the basis of the submitted variety description and other information.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 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 are carried out under the supervision of the registrar. The registrar forwards 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 are 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) Where no methodology specified in subsection 3 of this section applicable to a plant species exists, the registrar elaborates an appropriate methodology in compliance with the internationally recognised principles applied by the UPOV, and coordinates it with the person carrying out the registration trials.

(5) The registrar determines 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 sets the applicant the time and place for delivery of the material necessary for carrying out the registration trials.

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

(8) The costs directly related to carrying out registration trials are 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 responsible for the field.  
[RT I 2010, 35, 193 – entry into force 08.07.2010]

(10) The results of registration trials are 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 makes 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) Where 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 makes a decision within 30 days after the receipt of the variety description and relevant information.

(3) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

(1) The registrar publishes 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 verifies 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) Where the registrar establishes that the proposed variety denomination does not comply with the requirements provided by this Act, the applicant is 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 is verified in accordance with the procedure provided in this section.

(4) Where 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 makes 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. An objection must be reasoned and it must be submitted to the registrar.

(2) The registrar notifies 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 makes a decision to reject or accept an objection within 20 working days following the receipt of a written response specified in subsection 3 of this section.  
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(5) Where, 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 gives the applicant a time limit for submission of a new proposal for the variety denomination in accordance with the procedure provided in subsection 3 of § 19 of this Act.

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

(1) Where a variety denomination complies with the requirements of this Act, the registrar makes 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) Where a variety meets the requirements of variety denomination, distinctness, uniformity and stability, the registrar makes a decision to register the variety and issues a variety certificate.

(1<sup>1</sup>) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1<sup>2</sup>) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) The registrar makes 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 responsible for the field establishes 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 where, 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, where there is good reason to revise the variety denomination;

3) at the request of an interested person where 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 is verified within the time limits and in accordance with 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 the species of cereals, fodder crops, oil crops, fibre crops and of varieties of the species of beets and potatoes (hereinafter jointly *agricultural plant*), vegetables, fruits and berries, which varieties have been declared compliant with the requirements.

(2) Varieties entered in the common catalogue of varieties of agricultural plant species of the European Union (*EU common catalogue of varieties of agricultural plant species*), common catalogue of varieties of vegetable species of the European Union (*EU common catalogue of varieties of vegetable species*) or common catalogue of varieties of fruit and berry species of the European Union (*EU common catalogue of varieties of fruit and berry species*) are also entered in the variety list.

(3) An agricultural plant variety, a vegetable variety, a fruit variety or a berry variety of a species whose varieties are not entered in the EU common catalogue of varieties of agricultural plant species, EU common catalogue of varieties of vegetable species or EU common catalogue of varieties of fruit and berry species may be entered in the variety list.

(4) The variety list is compiled up by the registrar of varieties of a species listed in this section, which has been declared compliant with the requirements and the entry of which in the variety list has been requested by the owner or maintainer of the variety.

(5) The seed and propagating material of a variety entered in the variety list may be:

1) produced, including the certification thereof may be applied for;

2) marketed;

3) imported.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## § 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 publishes 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) The maintainer of a variety is the owner of the variety or the person who, upon registration of the variety, ensures that the variety meets the distinctness, uniformity and stability requirements (hereinafter *maintenance of variety*).  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(4) The variety list and a list of maintainers of varieties included in the variety list are 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 are correspondingly designated in the variety list.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

(5) The registrar informs 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) A variety of a vegetable, fruit or berry species and a variety of grass intended for the cultivation of lawn is entered in the variety list where it meets the requirements provided in clauses 1 and 3 to 5 of subsection 1 of this section.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(3) Where a variety component used for creating hybrid varieties complies with the requirements provided in clause 1 of section 1 of this section, it is 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 are established by the minister responsible for the field.  
[RT I 2006, 28, 211 – entry into force 01.07.2006]

(5) A variety intended for conservation of genetic resources is entered in the variety list where 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 is 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 organises 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 forwards 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 is 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 is compared to the cultivation value of standard varieties.

(4) The registrar communicates 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 are 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 are 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 responsible for the field.

## **§ 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 is 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 makes a decision to list or to refuse to list a variety in the variety list by 31 December of the year of receipt of the report concerning the trials for the agricultural value of cultivation and use of the last year of trials.

(3) The registrar makes 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 Rural Affairs.

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

(4) The registrar refuses to list a variety intended for conservation of genetic resources in the variety list where:

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) the community plant variety rights provided for in Council Regulation (EC) No 2100/94 (OJ L 227, 01.09.1994, pp. 1–30) has been granted regarding it;

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

5) it is protected by a national plant variety right;

6) the application for plant variety rights is pending.

(5) A variety is kept in the variety list as follows:

1) a variety of an agricultural plant species and a variety of a vegetable species is kept therein for ten calendar years starting from the date of making a decision to enter the variety in the variety list;

2) a variety of a fruit or berry species is kept therein for thirty calendar years starting from the date of making a decision to enter the variety in the variety list;

3) starting from the date of making a decision to enter a genetically modified variety in the variety list until the expiry of the authorisation specified in the Release into Environment of Genetically Modified Organisms Act or in Article 4(2) or 16(2) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 are established by the minister responsible for the field.

(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, are established by the minister responsible for the field.  
[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) A variety entered in the variety list must be maintained throughout the period in which the variety is kept in the variety list. A variety intended for the conservation of genetic resources is maintained in the region of origin of the variety.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) In order to exercise supervision over the maintenance of a variety, the maintainer of the variety collects and stores 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 submits 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 are established by the minister responsible for the field, 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 for maintaining a variety of an agricultural plant or vegetable species in the variety list for up to ten years and the term for maintaining a variety of a fruit or berry species in the variety list for up to thirty years after the day following the date of expiry of the term for maintaining the variety in the variety list where it has been established that the variety continues to be maintained.

(2) The term of keeping a genetically modified variety in the variety list may be renewed on the basis of an applicant's application until the expiry of the authorisation specified in the Release into Environment of Genetically Modified Organisms Act or in Article 4(2) or 16(2) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council, which has been granted regarding the genetically modified variety.

(3) For the purpose of renewal of the term for keeping a variety in the variety list, the applicant submits a request specified in subsection 1 of this section to the registrar two years before the deadline provided for in subsection 5 of § 28 of this Act.

(4) The registrar may also renew the term for keeping in the variety list of such a variety of a fruit or berry species for the renewal of the term of which no application specified in subsection 1 of this section has been filed.

(5) In the event specified in subsection 4 of this section, the term of keeping in the variety list a known variety of a fruit or berry species or such a fruit or berry species whose inclusion in the variety list is important for the preservation of the natural environment or genetic resources or in public interests.

(6) If the registrar has identified the existence of the interest specified in subsection 5 of this section, the registration establishes whether the variety has been maintained.

(7) The registrar makes a decision to renew the term for maintaining a variety in the variety list or a decision to refuse to extend the term for maintaining a variety in the variety list within ten working days after receiving the results of the maintenance checks of the variety.

(8) A decision to renew the term of keeping a variety in the variety list is made by the registrar in the form of an entry of the plant varieties register. Only a decision to refuse to renew the terms of keeping a variety in the variety list is made in writing for the applicant.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 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) Where a circumstance specified in clauses 1 to 3 or 5 of subsection 1 of this section becomes evident, the registrar makes 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 submits an application to the registrar. The registrar makes 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 are established by the minister responsible for the field.

### **§ 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 submits to the registrar an application to this effect.

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

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

(4) The minister responsible for the field may establish the requirements for compilation of the list of recommended varieties of agricultural plants.

(5) The list of recommended varieties of agricultural plants is 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 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 where 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 are established by the minister responsible for the field.

## **Division 3**

# **Plant Variety Rights**

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

(1) Plant variety rights are granted with respect to all plant genera and species, including hybrids between them. Plant variety rights are not granted with respect to a variety which has been granted plant variety rights of the European Union under Council Regulation (EC) No 2100/94.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1<sup>1</sup>) Upon application of the plant variety rights provided for in this Division, the general principles set out in Council Regulation (EC) No 2100/94 regarding plant variety rights in the European Union are followed.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) Plant variety rights give the owner of a variety or another person licensed by the owner the exclusive 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 owner of a variety protected by plant variety rights 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]

(2<sup>2</sup>) Where the rights of a variety owner specified in subsections 2 and 2<sup>1</sup> of this section are exercised by another person on a basis other than a licence agreement, the owner has the right to charge a fee for it directly or via a third party.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(3) A variety protected by plant variety rights may be used without the owner's authorisation 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 rights**

(1) The rights of the owner of a variety protected by plant variety rights specified in subsection 2 of § 35 of this Act also apply to varieties:

- 1) which are essentially derived from a variety protected by plant variety rights where the protected variety is not an essentially derived variety;
- 2) which are not clearly distinguishable from the protected variety under subsection 1 of § 11 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 is not included in the arable land used for growing small quantities of plants.

(4) The minister responsible for the field establishes the list of the plant species specified in subsection 2 of this section.

(5) An operator who, for the purpose of propagation, uses a plant material obtained from the seed or propagating material of a plant species specified in a list established on the basis of subsection 4 of this section,

which is subject to plant variety rights, in its undertaking in an area larger than the area provided in subsection 3, must pay a fair fee to the owner of the variety not later than by 30 June of the year following the year of using the plant material. Such fair fee must be significantly lower than the licence fee payable by a producer of the seed of the variety of the same plant species or by a supplier engaging in the production of the propagating material of the variety of the same plant species.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(7) An operator growing small quantities of a protected variety and an operator specified in subsection 5 of this section keep record of their activities and inform the owner of the variety or a third party representing the owner of the quantities of seed or propagating material derived from the protected variety within ten days after receiving a respective request.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 36<sup>1</sup>. Payment of fair fee**

(1) The owner of a variety has the right to directly or via a third party obtain information on growing the seed or propagating material of the protected variety, which is necessary for the collection and payment of a fair fee.

(2) An operator's obligation to pay a fair fee emerges on the day when the operator actually uses a plant material obtained from the seed or propagating material of the protected variety in its undertaking on an area larger than the area specified in subsection 3 of § 36 of this Act.

(3) The owner of the variety determines the manner of payment of a fair fee and sets the due date.

(4) The due date of payment of a fair fee should be earlier than the data of emergence of the agricultural producer's obligation to pay the fee.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

Plant variety rights are granted where a variety meets the requirements of § 10 of this Act, is new and plant variety rights of the European Union have 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 rights**

(1) Granting plant variety rights 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 European Union plant variety rights have not been granted with respect to the variety and makes an entry concerning the granting of plant variety rights 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 plant variety rights is submitted by the owner of the variety. Where there are several owners of a variety, they submit a joint application with an indication of the percentage of the share of each owner.

(3) The registrar publishes 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 rights**

(1) The owner of a variety may transfer the right to apply for plant variety rights 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 is 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 plant variety rights until the date of making the decision to grant plant variety rights or the decision to refuse to grant plant variety rights.

(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 an owner of the variety protected by plant variety rights.  
[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 rights or the legal successor of such person to apply for the plant variety right.

(2) The registrar determines the priority of granting plant variety rights concerning a variety as of the date of receipt of the application. Where several applications for the plant variety rights for the same variety are received on one day by the registrar, priority is determined according to the order in which they are received.

(3) Where the same person has filed, less than one year previously, an application for the plant variety rights with regard to the same variety in another country, the registrar determines, 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 provides the registrar with a copy of the application for plant variety rights as received by the registrar of the other country together with a translation of the application for plant variety rights into Estonian. The truthfulness of the copy must be certified by the registrar of the other state. A copy of the application for plant variety rights 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 plant variety rights.

(2) An objection may be filed concerning the novelty, distinctness, uniformity or stability of a variety, or concerning the right to apply for plant variety rights.

(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 notifies the applicant of a submitted objection within ten working days following receipt of the objection.  
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

#### **§ 44. Response to objection**

(1) Within three months of receipt of an objection, the applicant submits a written position concerning the objection which sets out whether the applicant wishes to retain the application unamended, to amend the application or to withdraw the application. Where necessary, the registrar may extend such time limit.

(2) The registrar forwards a response to the objector within ten working days following receipt of the objection.  
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(3) Within 30 days after receiving the response, the objector gives written notice as to whether the objector wishes to maintain or withdraw the objection. An objection is deemed to be withdrawn where the objector has not given notice by the due date as to whether the objector wishes to maintain or withdraw the objection.

(4) Where the applicant has not responded to an objection by the due date, the application requesting that plant variety rights be granted is deemed to be withdrawn.

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

The registrar makes 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 3 of § 44 of this Act.

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

(1) Where a variety meets the requirements provided by this Act, the registrar makes a decision to grant plant variety rights and, on the same day, makes a corresponding entry in the plant varieties register.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) Where a variety does not meet the requirements provided by this Act, the registrar makes a decision to refuse to grant plant variety rights, 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, remains under variety protection for 25 years after the date of making the decision to grant plant variety rights. A variety of a grape vine or tree species entered in the plant varieties register remains under variety protection for 30 years after the date of making the decision to grant plant variety rights.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

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

(5) A variety protected by plant variety rights must be maintained during the term of the plant variety rights. Maintenance of a protected variety is guaranteed by the owner of the variety protected by plant variety rights. Upon maintaining a protected variety, the owner of the variety protected by plant variety rights 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 rights**

(1) The registrar issues a certificate of plant variety rights to the owner of the variety protected by plant variety rights within ten working days after the date of making the decision to grant plant variety rights and making a corresponding entry in the plant varieties register. A certificate of plant variety rights is valid during the period in which the variety is protected by plant variety rights.  
[RT I 2008, 23, 150 – entry into force 01.07.2008]

(2) Where a variety is granted plant variety rights directly after the variety is registered, the certificate of plant variety rights substitutes for the variety certificate.

(3) The minister responsible for the field establishes the substantive requirements for certificates of plant variety rights.

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

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

(2) In order to have the term of validity of the plant variety rights extended, the owner of the variety protected by plant variety rights submits a corresponding application to the registrar two years before the expiry of the term.

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

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

(1) The registrar makes a decision to revoke the decision to protect a variety by plant variety rights where:  
1) the owner of the variety protected by plant variety rights 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 rights.

(2) The date of termination of plant variety rights must be indicated by the owner of the variety protected by plant variety rights in the application; in the absence of a date of termination, plant variety rights are deemed to terminate on the date of receipt of the application.

(3) The registrar makes a decision to revoke a decision grant plant variety rights 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 clause 2 or 4, or after the date of expiry of the term specified in clause 3 of this section, and makes a corresponding entry in the plant varieties register.

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

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

(1) The registrar makes a decision to retroactively revoke a decision to grant plant variety rights on the registrar's own initiative or on the basis of an application of an interested person where, after granting the plant variety rights, 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 rights;

2) the variety that was granted plant variety rights 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 plant variety rights was issued to a person who was not entitled to apply for plant variety rights.

(2) The registrar makes a decision to retroactively revoke a decision to grant plant variety rights within 30 working days after the establishment of a circumstance specified in subsection 1 of this section and makes a corresponding entry in the plant varieties register.

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

(3) Where a decision to grant plant variety rights is revoked retroactively, plant variety rights are deemed to be revoked as of the time they were granted.

#### **§ 51. Transfer of rights of owner of variety protected by plant variety rights**

(1) The owner of the variety protected by plant variety rights may transfer the rights attached to the variety to another person.

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

(3) In order to amend the data in the register pertaining to the owner of the variety protected by plant variety rights, the person to whom the rights of the owner of a variety protected by plant variety rights transfer submits 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 is 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. Where the rights of the owner of the variety protected by plant variety rights are transferred in accordance with a court judgment, the application is filed with the registrar within 30 working days after the date on which the court judgment enters into force.

(5) The registrar makes 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 owner of the variety protected by plant variety rights are deemed to be transferred to another person from the date of transfer of the rights in accordance with 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 owner of the variety protected by plant variety rights transfer on the basis and in accordance with the provisions of this section may commence the exercise of the rights of the owner of the variety protected by plant variety rights 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 owner of the variety protected by plant variety rights (licensor) may transfer the rights of the owner of the variety protected by plant variety rights specified in subsection 2 of § 35 of this Act to another person (licensee) by way of a written licence agreement (hereinafter *licence*).

(2) By transfer of the rights of the owner of the variety protected by plant variety rights to another person, the rights and obligations arising from the licence also transfer to such person.

#### **§ 53. Compulsory licence**

(1) A compulsory licence is a non-exclusive licence issued by the minister responsible for the field in a situation where the owner of the variety protected by plant variety rights refuses to issue a licence to a person interested in using and able to use the variety protected by plant variety rights where:

- 1) the use of the protected variety is in the public interest, or
- 2) the licensor has not, within three years after plant variety rights were 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 plant variety rights submits a relevant application to the minister responsible for the field.

(3) An application for a compulsory licence sets 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 responsible for the field assesses whether the issue of the compulsory licence is justified.

(2) The minister responsible for the field makes 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 owner of the variety protected by plant variety rights 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 sets 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 specifies the licence fee which the licensee must pay to the owner of the variety protected by plant variety rights. The licence fee is 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 owner of the initial variety protected by plant variety rights is also prescribed.

(2) The owner of the variety protected by plant variety rights 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 responsible for the field 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 responsible for the field revokes a compulsory licence before the date of expiry of the compulsory licence where:

- 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 are established by the Government of the Republic.

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

(2) The purpose of the register is to ensure the preservation of a variety, the protection of the rights of the owner of a variety, the performance of the statutory tasks of the registrar and efficient supervision over the compliance with the requirements provided for in this Act.

[RT I, 19.03.2019, 7 – entry into force 01.01.2020]

(3) The controller of the register is the Ministry of Rural Affairs and the processor is specified in the statutes of the register.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

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

(1) The following is entered in the register: the variety data prescribed by this Act and the variety owner's, variety breeder's, variety representative's and the variety maintainer's name, registry code or personal identification code or, upon absence of a personal identification code, the date of birth, the contact details, the name and contact details of the persons representative, if any, as well as the manner of acquisition of the rights of the variety rights and the OECD code of the maintainer of the variety.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(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 refuses to make an entry in the register where:

- 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 gives the registrar written notification thereof within 14 days after the date on which the change to the data took place.

(2) The registrar makes 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) The data entered in the register, except for data not subject to disclosure, are public and made available on the registrar's website and may be published on paper as well.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(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 are retained 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, the production of cultivating material means the growing, collection, processing, preservation and packaging of the seeds of forest trees for marketing purposes as well as the growing of forest planting material from seed, plant parts or plants.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## § 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 1 to 5 of subsection 3 of § 31 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 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, the supplier of a propagating material or the supplier of a cultivating material engaged in the production of plants of forest trees determines on the basis of the production method used the main critical points of the production process and the measures applied therein, documents these and ensures the application of such measures (hereinafter *self-control system*).  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(4) The self-control system of suppliers of cultivating material must 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 systems of suppliers of propagating materials are established by a regulation of the minister responsible for the field.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(6) The requirements for the self-control system of suppliers of cultivating material engaged in the production of plants of forest trees are established by the minister responsible for the field.

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

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

- 1) on a plot of land, or in a building or construction works used for production, and prevents 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>) Where 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 immediately informs 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 must have varietal and species identity.

(3) For production of seed in seed orchards, progeny of plus-trees recognised by the Environmental Board are 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 are established by the minister responsible for the field.

(5) The minister responsible for the field establishes 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 are established by the minister responsible for the field.

(7) The requirements for the production of seed and propagating material intended for the conservation of seed, propagating material and genetic resources are established by the minister responsible for the field.

[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 is granted to an undertaking where 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 publishes 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 keeps 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 are established by a regulation of the minister responsible for the field.

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

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

(1) The certification of seed and propagating material means ascertaining the descent, 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. The field inspection, analysing of samples and post-control field trials is conducted in the course of certification, depending on the plant species or group of species.

(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) Assessment of the descent of seed and propagating material, identity of a species and variety, purity of a species and variety, and occurrences of harmful organisms is considered the field inspection of fruit or berry species and of seed potatoes.

(4) The field inspection of a propagating material and a seed of a pre-basic or basic category is carried out by the Agricultural Board and the field inspection of a seed of a certified category is carried out by the Agricultural Board or an operator holding a field inspection activity licence.

(5) A sample is taken by the Agricultural Board or, in the case of a seed, by an operator holding a sampling activity licence.

(6) The sample of a seed is analysed by an operator holding a seed sample analysis activity licence or by a state authority that meets the activity licence requirements.

(7) An applicant for certification pays for a field inspection, sampling and seed analysis on the basis of an invoice. An applicant for certification pays a state fee for a field inspection and sampling carried out by the Agricultural Board.

(8) The procedure and requirements for the certification of seed and propagating material per plant species or group of plant species are established by the minister responsible for the field.

(9) The prescribed sample sizes and the requirements for establishing the compliance of seed and propagating materials with the requirements are established by a regulation of the minister responsible for the field.

(10) The certification of a cultivating material means the analysing of the descent, identity of the species, and quality of the basic material of a cultivating material as well as its compliance with the plant health requirements in line with internationally established requirements, and the issue of a document in proof of certification and, in the case of a seed lot, the sealing and marking of the sales packaging under the supervision of the Environmental Board. In the course of certification, the seeds of forest trees are analysed in an accredited laboratory using internationally recognised methods.

(11) The Environmental Board takes a cultivating material sample.

(12) The requirements for certification of cultivating materials and sampling are established by a regulation of the minister responsible for the field.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 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) The following is subject to certification: cultivating materials, seeds of varieties and seed potatoes included in the variety list or in the or in the EU common catalogue of varieties of vegetable species, and the propagating materials of varieties included in the EU common catalogue of varieties of fruit and berry species.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2<sup>1</sup>) The seed of a variety of an agricultural plant or a vegetable species included in the variety list and the propagating material of a fruit or berry species that is not accepted for inclusion in the EU common catalogue of varieties of agricultural plant species, EU common catalogue of varieties of vegetable species or EU common catalogue of varieties of fruit and berry species is subject to certification and inspection in Estonia.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 is established by the minister responsible for the field.

(6) The list of species of forest trees subject to certification is established by the minister responsible for the field.

[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 are established by the minister responsible for the field.

(3) The requirements for the content of documents attesting the certification of cultivating material are established by the minister responsible for the field.

(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 is established by the minister responsible for the field.

(5) The term of validity of a document attesting the certification of cultivating material is 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 submits 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) Where a seed lot complies with the requirements established for the germination rate of certified seeds, the Agricultural Board or the Environmental Board extends 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 is guaranteed by the producer or marketer of the seed. The compliance of other propagating and cultivating material with the quality requirements is guaranteed by the supplier thereof.

(4) The quality requirements for other seed and propagating material by plant species or groups of plant species are established by the minister responsible for the field.

(5) The quality requirements for other cultivating material are established by the minister responsible for the field.

(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 ensures the compliance of the seed of a variety intended for conservation of genetic resources and the supplier ensures 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 organises 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 certifies 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 is carried out, samples are analysed and post-control field trials are 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 a propagating or cultivating material keeps a field record with regard to the area used for that purpose in accordance with the Water Act and, in the case of using a building or a civil engineering works, has a usage plan thereof.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) For the purposes of this Act, a usage plan means a set of data kept and retained on paper or digitally, which contains the details of the supplier using the building or the civil engineering works for the production of a propagating or cultivating material and the details of the building or the civil engineering works used for the production of the propagating or cultivating material such as the type and total area of the building or civil engineering work and the details of the plant species produced therein.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(3) Producers of seed keep a field record.

(4) Producers of seed and suppliers engaged in the production of propagating and cultivating material 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 are retained for five years and documents relating to the production of propagating and cultivating material are retained for three years.  
[RT I 2009, 48, 321 – entry into force 23.10.2009]

## **Chapter 4**

### **FIELD INSPECTOR, SEED SAMPLE COLLECTOR AND SEED TESTING LABORATORY**

[RT I, 19.03.2019, 7 - entry into force 01.04.2019]

#### **§ 78. Field inspection authorisation obligation**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) To carry out field inspections, an operator needs to have a field inspection activity licence.

(2) The field inspection activity licence authorises the operator to carry out field inspections of only those groups of plant species that are listed in the licence.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 79. Applying for field inspection activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) An application for a field inspection activity licence is decided by the Agricultural Board which grants or refuses to grant the licence.

(2) In addition to the information required in subsection 2 of § 19 of the General Part of the Economic Activities Code Act, an application for a field inspection activity licence must contain the following data:

- 1) the number of a valid certificate of completion of the basic field inspector training;
- 2) the details of the group of the plant species the field inspection of which is sought;
- 3) information on whether the applicant wishes to provide the field inspection service;
- 4) the name and contact details of a person that meets the requirements applicable to field inspectors and the person's signed statement that they will act impartially, make an assessment of the that corresponds to the actual condition of the seed field and carry out field inspection in accordance with the procedure established in this Act and in legislation adopted on the basis of this Act.

(3) The data specified in subsection 2 of this section are entered in the plant health register established on the basis of subsection 1 of § 30 of the Plant Protection Act.

(4) The person does not have to pay a state fee for obtaining a decision on an application for a field inspection activity licence.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 80. Object of inspection of field inspection activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

A field inspection activity licence is granted to an operator where the operator or a person operating in its undertaking and having a contractual relationship with the operator has completed field inspector training in accordance with § 82 of this Act and holds a valid certificate in proof thereof.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 81. Secondary conditions of field inspection activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

The following secondary conditions are added to the field inspection activity licence: the name of the field inspector, the details of the group of the plant species for the field inspection of which the activity licence has been granted and, where the operator has requested it in its application for a field inspection activity licence, the right to provide the field inspection service.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 82. Field inspector training**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) Field inspector training is provided by the Agricultural Board.

- (2) Field inspector training consists of fundamental training and supplementary training.
- (3) Fundamental training includes a theoretical part and a practical part that involves participating in field inspections during one plant growth period.
- (4) The fundamental field inspector training ends with an examination.
- (5) A person who failed the examination specified in subsection 4 of this section is allowed to retake the examination during the next plant growth period. A person who fails the re-examination must complete the fundamental field inspector training again.
- (6) In proof of completion of the fundamental field inspector training a certificate that is valid for an unspecified term is issued to a person.
- (7) A person who has received a certificate specified in subsection 6 of this section in proof of completion of the fundamental field inspector training must undergo supplementary field inspector training once every two years.
- (8) A certificate issued in proof of the completion of the fundamental field inspector training is valid for two years from the date of issue of the certificate, unless the person has not:
- 1) completed supplementary field inspector training from the year of issue of the certificate, or
  - 2) carried out field inspections during two consecutive plant growth periods.
- [RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 83. Requirements for field inspection**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

- (1) A field inspector carries out field inspections in accordance with the procedure established in this Act and in legislation adopted on the basis of this Act.
- (2) A field inspector makes an assessment of the actual situation of a seed field, draws up a field inspection report thereof and hands it over to the Agricultural Board or to the person who commissioned the field inspection within ten working days or, in the case of a field inspection of a winter crop, within five working days after the field inspection.
- [RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 84. Seed sampling authorisation obligation**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

An operator needs to have a seed sampling activity licence for the purpose of determining seed quality and, for the purpose of post-control field trials, taking a seed sample from a seed lot that is subject to certification and intended and conditioned for marketing.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 85. Applying for seed sampling activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

- (1) The Agricultural Board decides an application for a seed sampling activity licence by granting or refusing to grant the licence.
- (2) In addition to the information required in subsection 2 of § 19 of the General Part of the Economic Activities Code Act, an application for a seed sampling activity licence must contain the following data:
- 1) the number of a valid certificate in proof of completion of the fundamental seed sampler training;
  - 2) the name and contact details of the person who meets the requirements applicable to a seed sampler;
  - 3) information on whether the person wishes to provide the seed sampling service.
- (3) The data specified in subsection 2 of this section are entered in the plant health register established on the basis of subsection 1 of § 30 of the Plant Protection Act.
- (4) The person does not have to pay a state fee for obtaining a decision on an application for a seed sampling activity licence.
- [RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 86. Object of inspection of seed sampling activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

A seed sampling activity licence is granted to an operator where the operator or a person operating in its undertaking and having a contractual relationship with the operator has completed seed sampler training in accordance with § 88 of this Act, holds a valid certificate in proof thereof and has technical equipment suitable for seed sampling.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 87. Secondary conditions of seed sampling activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

The name of the seed sampler and, where requested by the operator in an application for an activity licence, the right to provide the seed sampling service are added to the seed sampling activity licence as secondary conditions.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 88. Seed sampler training**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) A seed sampler completes seed sampler training in taking seed samples, which is organised by a laboratory accredited by the International Seed Testing Association (hereinafter *ISTA*).

(2) Seed sampler training consists of fundamental training and supplementary training.

(3) The fundamental seed sampler training ends with an examination.

(4) A person who failed the examination specified in subsection 3 of this section is allowed to take a re-examination within one year from the time of failing the examination. A person who fails the re-examination must undergo the fundamental seed sampler training again.

(5) A certificate that is valid for an unspecified time is issued to a person who has completed the fundamental seed sampler training.

(6) A person who has received a certificate in proof of completing the fundamental seed sampler training specified in subsection 5 of this section must complete annual supplementary seed sampler training.

(7) A certificate issued in proof of completion of the fundamental seed sampler training is valid for one year from the year of issue of the certificate if the person:

1) has not participated in supplementary seed sampler training within one year from the year of receiving the certificate, or

2) has taken less than ten seed samples in a calendar year.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 89. Requirements for seed sampling**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) A seed sampler:

1) takes samples using an internationally recognised method;

2) performs their tasks impartially and in accordance with requirements;

3) draws up a seed sampling report;

4) closes the sales packaging or container of a seed lot subject to certification with a security sticker or a seal;

5) marks the sales packaging or container of a certified seed lot with a label issued by the Agricultural Board or a label that the producer itself has been allowed to print;

6) ensures the lawful, compliant and accurate preparation and filling-in of the order form, labels of the sample bag and security stickers.

(2) Seed samples taken by a seed sampler are analysed for the purpose of determining the seed quality in an accredited seed testing laboratory of a private legal person or that of the national accreditation institution of Estonia or contracting state of the European Economic Area.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 90. Seed sample analysis authorisation obligation**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

To analyse, for the purpose of determining the quality, a seed sample taken of a seed lot that is subject to certification, the operator needs to have a seed sample analysis activity licence.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 91. Applying for seed sample analysis activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) The Agricultural Board decides an application for a seed sample analysis activity licence by granting or refusing to grant the licence.

(2) In addition to the information required in subsection 2 of § 19 of the General Part of the Economic Activities Code Act, an application for a seed sample analysis activity licence must contain the following data and documents:

- 1) the name and contact details of the seed analyst and the leading seed analyst;
- 2) a copy of the document certifying the accreditation of the seed testing laboratory;
- 3) details of the analysis methods used;
- 4) information on whether the person wishes to provide the service of determining the seed quality of seed lots that are subject to certification.

(3) The data specified in subsection 2 of this section are entered in the plant health register established on the basis of subsection 1 of § 30 of the Plant Protection Act.

(4) The person does not have to pay a state fee for obtaining a decision on the application for a seed sample analysis activity licence.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## **§ 92. Object of inspection of seed sample analysis activity licence**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

An operator is granted a seed sample analysis activity licence provided that the operator has a seed testing laboratory that meets the requirements of this Act.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

[Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## **§ 93<sup>1</sup>. Secondary conditions of seed sample analysis activity licence**

Where the operator has requested it in the application for a seed sample analysis activity licence, the names of the seed analyst and leading seed analyst and the right to provide the service of determining the seed quality of seed lots subject to certification are added to the activity licence as the secondary conditions of the licence.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## **§ 93<sup>2</sup>. Requirements for seed testing laboratory**

(1) A seed testing laboratory must be accredited by a national accreditation institution of Estonia or a contracting state of the European Economic Area to analyse seed samples taken from seed lots subject to certification and to determine seed quality.

(2) A seed testing laboratory analyses a seed sample in accordance with internationally established requirements, using internationally recognised methods.

(3) A seed analyst working in a seed testing laboratory must have technical qualifications required for working in the laboratory.

(4) The leading seed analyst working in a seed testing laboratory is responsible for technical acts performed in the laboratory and have qualifications required for managing a seed testing laboratory.

(5) A seed testing laboratory must have a management and quality system and take duplicate samples of all seed lots that are subject to certification, which are retained for at least one year from the date of analysing the sample. The laboratory must participate in comparative tests with a satisfactory result at least once a year.

(6) A seed testing laboratory documents the analyses of samples. Data and documents concerning the analysis of a sample are retained for five years from the date of analysing the sample.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

# **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, propagating material of certified fruit and berry species, and seed potatoes means the packaging thereof in sales packages and the closing and marking of the sales packages.

(2) For the purposes of this Act, the packaging of the propagating material of horticultural plants and cultivating material, except for certified propagating material of fruit and berry species, means the marking of the sales packaging of the propagating material and forest plants prepared for sale.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### **§ 95. Notification obligation of packager of seed, except seed of forest trees**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) To package seed, a notice of economic activities is submitted to the Agricultural Board before the commencement of operations.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 are entered in the plant health register established on the basis of subsection 1 of § 30 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 retain 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 are established by the minister responsible for the field.

(3) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 97. Notification obligation of packager of seed of forest trees**

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(1) To package the seed of forest trees, a notice of economic activities is submitted to the Environmental Board before the commencement of operations.

(2) 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) the name of the tree species whose seeds will be packaged;

2) a description and location of the building used for packaging and the name and marking of the existing equipment.

(3) The requirements for packaging forest tree seed and packaging facilities are established by a regulation of the minister responsible for the field.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

[Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

[Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

#### **§ 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, propagating material of fruit and berry species, and seed potatoes are packaged and the sales packaging is closed and marked under the supervision of the Agricultural Board.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

## **§ 101. Marking requirements**

(1) Sales packages of certified seed, propagating material of fruit and berry species and 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 has been issued, must also set out the data required in the plant passport.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) For the seed of agricultural plant and vegetable species and the propagating material of fruit and berry species, the producer or supplier may print the requisite information on the label or sales package in accordance with the prescribed procedure.  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 are established by the minister responsible for the field.  
[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 are established by the minister responsible for the field.

## **§ 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 keeps detailed records of their activities. Documents relating to the packaging of seed potatoes are retained for a period of at least five years. Documents relating to the packaging of propagating and cultivating material are retained 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 must meet the quality requirements established, on the basis of subsection 3 of § 3 or subsection 3 of § 4 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 4 and 5 of § 76 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 3 and 4 of § 6<sup>1</sup> 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 are established by the minister responsible for the field.

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

(5) The quality requirements for cultivating material to be marketed are established by the minister responsible for the field.

(6) For the purpose of establishing more detailed requirements, the minister responsible for the field 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) Where, in accordance with subsection 6 of this section, seed and seed potatoes may be marketed only with the permission of a competent authority, the Agricultural Board decides 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 1 of § 104 of this Act is accompanied by a document in proof of certification.

(2) A lot of the seed and propagating material specified in subsection 2 of § 104 of this Act is 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 3 of § 104 of this Act is 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 3<sup>1</sup> of § 104 of this Act is 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 is 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 are established by the minister responsible for the field.

(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 bears a separate label of the supplier containing the name, address and lot number. The supplier guarantees 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 is sent to the buyer of the seed.

(7) A lot of cultivating material to be placed on the market in another Member State is 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 forwards the necessary information to the Environmental Board who sends a relevant notice to the responsible authority.

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

(8) The contents 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 are established by the minister responsible for the field.

## **§ 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 responsible for the field may prohibit the placing on the market of the variety in Estonia and give the European Commission notice thereof.

(2) The Ministry of Rural Affairs requests 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) Where 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 Rural Affairs informs 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 Rural Affairs 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 submits 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 forwards 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, must 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, must 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, must not exceed 10% of the quantity of the seed 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, must 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 are established by the minister responsible for the field 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 is established by the minister responsible for the field 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 submits by 15 April to the Ministry of Rural Affairs 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) Where, according to the information specified in subsection 1 of this section, the limits established on the basis of subsection 5 of § 106<sup>2</sup> are likely to be exceeded, the Agricultural Board, on the basis of the information specified in subsection 1 of this section and with regard to the species and varieties, determines 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 are determined proportionally between the producers or suppliers of a variety intended for conservation of genetic resources, depending on the plant species and the variety. By 1 May the Agricultural Board makes 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 communicates 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 communicates 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) Where, 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 reduces the quantity of the seed of the preservation mixture authorised to be marketed proportionally with regard to each producer.

(5) The Agricultural Board makes 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 is 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 is determined by the Agricultural Board upon granting preservation mixture marketing authorisation.

(4) The manager of a protected area grants 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 decides whether to grant a preservation mixture marketing authorisation. The Agricultural Board refuses to grant a preservation mixture marketing authorisation where:

- 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 2 of § 106<sup>4</sup> 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, is established by a regulation of the minister responsible for the field.

[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 keep detailed records of their activities. Documents relating to the marketing of seed or propagating or cultivating material are retained 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 informs 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 31 January 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 4 of § 72 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 informs 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 1 December 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 applies, 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 notifies 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 keep detailed records of their activities and retain 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 must comply with the quality requirements established on the basis of this Act and be accompanied by a document in proof of certification or checking.

(2) The requirements for the import of cultivating material are established by the minister responsible for the field.

#### **§ 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 makes 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 refuses to issue the permission to import where:

[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 4 of § 32 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 responsible for the field establishes 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 7<sup>1</sup>

## PROVISION OF INFORMATION ON USE OF VARIETY

[RT I, 19.03.2019, 7 - entry into force 01.01.2020]

### § 113<sup>1</sup>. Provision of information on use of variety of agricultural species

(1) An operator that grows an agricultural species keeps account of their activities and by 30 June of the year of use of the seed or propagating material and, in the case of a winter crop, by 30 June of the year following the use of the seed submits to the Agricultural Board the name of the agricultural species, the name of the variety, the area of the arable land used for growing each variety and information on whether a certified seed or propagating material or a seed produced for use in their own enterprise has been used for growing the agricultural species.

(2) The data specified in subsection 1 of this section is entered in the plant varieties register.

(3) The Agricultural Board has the right to give information specified in subsection 1 of § 36<sup>1</sup> of this Act to the owner of a variety or a third party representing the owner.

[RT I, 19.03.2019, 7 – entry into force 01.01.2020]

# 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, regarding import of seed and propagating and cultivating material in accordance with the provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 269, 10.10.2013, pp. 1–101).

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(2) [Repealed – RT I, 19.03.2019, 7 – entry into force 01.04.2019]

### § 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, 50, 52 and 53 of the Law Enforcement Act on the grounds and in accordance with the procedure provided for in the Law Enforcement Act.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) If in the course of supervision, the law enforcement authority has justified reason to believe that the marketed or imported seed lot or propagating or cultivating material lot does not meet the quality requirements established for seed and propagating or cultivating material, it suspends the marketing or importing of the lot until the results of an analysis of a sample taken from it become evident.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(3) If it is established as a result of analysing a sample obtained in the course of state supervision that the seed lot or propagating or cultivating material lot to be marketed or imported does not comply with the requirements established for the seed or propagating or cultivating material to be marketed or imported, the law enforcement authority suspends the marketing or importing of the lot until a decision to prohibit the marketing or importing is made. A decision to prohibit marketing or importing is made within five working days after learning of the results of an analysis of the sample.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(5) The law enforcement authority may take samples at the expense of the person upon inspection of a movable. Where 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 is not 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 owner of the variety protected by plant variety rights, and of comparing the characteristics of the plants grown from the seed or propagating material provided by the owner of the variety protected by plant variety rights 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 responsible for the field establishes the requirements for the frequency and extent of post-control trials.

#### **§ 117<sup>1</sup>. State supervision over field inspection, seed sampling and seed sample analysis**

(1) The Agricultural Board exercises state supervision over field inspection. In the course of state supervision, it is checked to the extent and with the frequency prescribed by subsection 5 of § 117 of this Act whether the assessment made by an operator holding a field inspection activity licence with regard to a seed field in a field inspection report corresponds to the actual situation.

(2) Where it is established in the course of state supervision that an assessment made with regard to a seed field in a field inspection report does not correspond to the actual situation, the field inspection has not been carried out in accordance with the requirements. In such an event the Agricultural Board makes a new field inspection report with regard to the seed field, which is relied on upon certifying a seed lot originating from the field.

(3) The Agricultural Board exercises state supervision over seed sampling. In the course of state supervision, a sample taken by an operator holding a seed sampling activity licence from a seed lot presented for certification is compared against a control sample taken by the Agricultural Board to the extent and with the frequency prescribed by subsection 5 of § 117 of this Act.

(4) Subsection 3 of this section does not apply to seed sampling carried out using an automated sampling device.

(5) The Agricultural Board exercises state supervision over analysing samples in a seed testing laboratory. In the course of state supervision the results of an analysis of a seed sample carried out by a seed testing laboratory are, to the extent and with the frequency prescribed by subsection 5 of § 117 of this Act, compared with the results of analysing a duplicate seed sample of the same lot by a seed testing laboratory accredited in accordance with the ISTA's methods.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

## **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 covers the costs for analysing a propagating material in the course of certification for the purposes of determining the presence of harmful organisms, except the costs of establishing the viral diseases of seed potatoes.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(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 are issued as a test report which, in addition to the results of the analysis, also contains 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 responsible for the field establishes 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 collects the necessary number 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 another 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) The penalty for marketing seed or a propagating or cultivating material that does not meet the requirements is a fine of up to 200 fine units.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

(2) The penalty for the same act committed by a legal person is a fine of up to 2000 euros.

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

**§ 125.–§ 129.**[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

### **§ 130. Proceedings**

The bodies that carry out extrajudicial proceedings of the misdemeanours specified in this Chapter are:

- 1) Agricultural Board;
- 2) Environmental Board;
- 3) Consumer Protection and Technical Regulatory Authority.

[RT I, 12.12.2018, 3 - jõust. 01.01.2019]

## **Chapter 10 IMPLEMENTING PROVISIONS**

### **§ 131. Plant varieties register and variety list**

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

(1) The register of protected varieties established as the plant varieties register under subsection 1 of § 8 of the Plant Variety Rights Act is deemed to be the plant varieties register specified in subsection 1 of § 57 of this Act, later known as the national varieties register.

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

(2) The Agricultural Board enters, 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 is continued in adherence to the requirements provided by this Act without applying the requirement of novelty.

(2) The plant variety rights of a variety placed under protection based on the Plant Variety Rights Act and a plant variety right certificate are 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 owner of the varieties bred using state funds and granted variety rights 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 owner of the variety protected by plant variety rights 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 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 is 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 in accordance with 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 3 of § 109 of this Act are, provided that it is prescribed by a relevant decision of the European Commission, determined by the Agricultural Board for the term set out therein.

[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

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

(3) The Agricultural Board immediately notifies 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 2008/72/EEC on the marketing of vegetable propagating and planting material, other than seed (OJ L 205, 01.08.2008, pp. 28–39) 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 determines, for the term set out in the aforementioned decision of the European Commission, a third state specified in subsection 4 of § 109 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, 19.03.2019, 7 – entry into force 01.04.2019]

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

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

(3) The Agricultural Board immediately notifies 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 compiles a list of third countries from which the import of the cultivating material of certain plant species is permitted, and publishes such list on its website.

(2) The Environmental Board immediately notifies 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 the propagating material of a known variety of a fruit or berry species which has been included in the variety list may be marketed.

(2) A variety of a fruit or berry species registered until 31 December 2016 in the plant varieties register published on the website of the Agricultural Board is as of 1 January 2017 deemed to be a variety included in the variety list of fruit and berry species for the next 30 years.

(3) The propagating material of a known variety of a registered fruit or berry 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.

(4) The propagating and planting material of a fruit or berry species produced in accordance with requirements in force from 1 October 2012 to 31 December 2016, which has been certified or complies with requirements established with regard to inspected propagating and planting materials, may be marketed until 31 December 2022. In the case of marketing such a propagating and planting material, the label and the consumer document of the material must refer to Article 32 of the Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections (OJ L 298, 16.10.2014, pp. 22–61).  
[RT I, 19.03.2019, 7 – entry into force 01.04.2019]

§ 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 enters into force on 1 January 2006.

(2) Clause 3 of subsection 1 of § 65 of this Act enters 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 L 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, in accordance with 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 in accordance with 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 in accordance with 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 in accordance with 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 in accordance with 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 in accordance with 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/EÜ (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/EÜ 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/EÜ 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]