

## THE CROATIAN PARLIAMENT

2644

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

### DECISION

#### PROMULGATING THE ACT ON SEEDS, PLANTING MATERIAL AND REGISTRATION OF VARIETIES OF AGRICULTURAL PLANTS

I hereby promulgate the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants passed by the Croatian Parliament at its session on 17 November 2005.

No: 01-081-05-3426/2

Zagreb, 22 November 2005

The President  
of the Republic of Croatia  
**Stjepan Mesić, m.p.**

#### ACT ON SEEDS, PLANTING MATERIAL AND REGISTRATION OF VARIETIES OF AGRICULTURAL PLANTS

##### I BASIC PROVISIONS

###### Article 1

(1) This Act regulates the production, marketing and importation of agricultural propagating material, the registration of varieties of agricultural plants, the inclusion of agricultural plant varieties into variety lists, the maintenance of agricultural plant varieties, the responsibilities of individual bodies relating to the activities under this Act and regulations made under this Act, inspection supervision and other issues important for the implementation of a uniform system of agricultural seed and nursery production.

(2) The production, marketing and importation of genetically modified agricultural propagating material as well as the registration of varieties of genetically modified agricultural propagating material, shall also be subject to the provisions of the Act on Genetically Modified Organisms (OG 70/05) and special regulations governing this area.

###### Article 2

(a) This Act shall apply to agricultural propagating material of the following plant groups and species:

- cereals, beets, potatoes, fodder plants, oleiferous and fibre plants, vegetables, fruits, grape vine and ornamental plants,
- agricultural propagating material of plant groups and species other than those mentioned in the first indent of this paragraph, if it has been produced and placed on the market in the Republic of Croatia.

(2) This Act shall not apply to:

- agricultural propagating material intended for export to third countries,
- agricultural propagating material which has been produced in a Community Member State and placed on the market of the Republic of Croatia, and which does not belong to plant species referred to in the first indent of paragraph 1 of this Article.

(3) The Minister of Agriculture, Forestry and Water Management (hereinafter: the Minister)

shall prescribe in more detail the species of plants referred to in paragraph 1 of this Article to which the provisions of this Act shall apply.

### Article 3

For the purposes of this Act, the following terms shall have the following meanings:

1. *Agricultural propagating material* means agricultural seeds and agricultural planting material, including seeds, whole plants and parts of plants, intended for the propagation and production of agricultural seeds, for the sowing or planting with a view to producing agricultural plants.
2. *Agricultural seeds* (hereinafter: seeds) means the generative and vegetative parts of agricultural plants used for the propagation and production of agricultural plants.
3. *Agricultural planting material* (hereinafter: planting material) means reproductive planting material, seedlings, transplants of vegetables and ornamental plants, other than forest planting material.
4. *Reproductive planting material* means seeds for the production of rootstocks, seedlings, vegetative rootstocks, rooted cuttings, root sprouts, layers, grafted rootstocks, buds, mature and green cuttings, scions and meristem, if derived from parent plants.
5. *Seedling* is an annual or perennial plant intended for the cultivation of fruit, grape vine and hop, for planting or transplanting.
6. *Vegetable transplant* means plant material which is obtained by generative or vegetative propagation and is used for the production of vegetables.
7. *Ornamental plants* include the seeds, bulbs, tubers, rhizomes, transplants and seedlings of flowers and other ornamental plants.
8. *Agricultural plant variety* (hereinafter: the variety) is a plant grouping within a single botanical taxon of the lowest known rank, which is defined by the expression of the characters resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one of the said characters, and remains unchanged after repeated propagation or at the end of a particular cycle of propagation.
9. *Category* is a certain level of quality of agricultural propagating material.
10. *Lot* means a certain quantity or a number of units of agricultural propagating material, identifiable by its homogeneity of composition and by its origin.
11. *Seed mixture* is a mixture of seeds of different species and varieties.
12. *Small packages* means packages containing seeds of a particular variety up to a specified maximum weight.
13. *Breeder of a variety* (hereinafter: the breeder) is a natural or legal person who has developed a new variety through a breeding process.
14. *Breeder's right* means the right resulting from the Act on the Protection of Plant Varieties (OG 131/97, 62/00).
15. *Supplier* is a legal person established in the Republic of Croatia or a natural person residing in the Republic of Croatia who is engaged in one of the following activities: breeding, maintenance, production, processing, marketing and importation of agricultural propagating material.
16. *Variety maintainer* is a legal or a natural person who maintains a variety.
17. *Seed sampler* is a natural person who is authorized to carry out seed sampling.

18. *Laboratory* is a legal person authorized by the Ministry of Agriculture, Forestry and Water Management (hereinafter: the Ministry) to analyze the quality of agricultural propagating material and to issue reports.

19. *Marketing* means selling, holding with a view to sale, offering for sale, and any disposal, supply or transfer of agricultural propagating material to third parties for the purpose of commercial exploitation, whether or not for consideration. The supply of agricultural propagating material to official testing and inspection bodies and to any person for the purpose of processing, provided the person who processes agricultural propagating material does not acquire title to the material thus supplied, shall not be regarded as marketing.

20. *Import* of agricultural propagating material means its introduction into the customs territory of the Republic of Croatia, except for the purpose of transit.

21. *Competent body* means a central state administration body, institution and legal and natural person authorised to perform certain activities under this Act, and competent legal and natural persons authorised to carry out the tasks which are the subject of this Act in third countries.

22. *Certification* is the process whereby agricultural propagating material is certified on the basis of official inspection or inspection under official supervision, and includes the issuance of a seed certificate or a planting material certificate.

23. *Plant gene bank* is a place for the conservation, characterisation, collection, utilization and maintenance of plant genetic resources for food and agriculture.

24. *Plant genetic resources* means any plant or genetic material of actual or potential value for food or for other uses in agriculture.

25. *Third countries* are all countries from which agricultural propagating material is imported into the Republic of Croatia.

26. *Community Member States* are the Member States of the European Union.

27. *DUS* is a procedure for testing distinctness, uniformity and stability of new plant varieties, with a view to granting the breeder's right and registering the varieties of agricultural plants.

28. *UPOV* is the International Union for the Protection of New Varieties of Plants

29. *Official inspection* means the inspection of agricultural propagating material which the Institute for Seed and Seedlings (hereinafter: the Institute) performs with a view to issuing a certificate.

30. *Inspection under official supervision* means the inspection of agricultural propagating material performed by legal or natural persons under the official supervision of the Institute for Seed and Seedlings.

31. *Official supervision* means an examination of a supplier performed by the Institute during the inspection of its production of agricultural propagating material.

32. *The Community Common Catalogue of Varieties* means the catalogue of varieties of agricultural propagating material, which comprises the varieties which are registered and included in the variety lists of the Community Member States.

33. *Non-professional final consumer* means a natural or legal person who is not professionally involved in the production or sale of seeds and/or planting material.

34. *In situ* means the conservation of genetic material in ecosystems or natural habitats, or in the farmed environment (on farm conservation) where a limited number of specimens are grown.

35. *In vitro* means the growing of plants in defined environmental conditions.

#### Article 4

(1) Activities related to the production of seed and planting material and the registration of varieties shall be carried out by the Institute for Seed and Seedlings, which is an institution established by the Government of the Republic of Croatia.

(2) Pursuant to this Act, the Institute shall perform the following tasks and duties:

- certification of seeds and planting material, through an official inspection and inspection under official supervision of the production, processing, or production, packaging, sealing and labelling of seeds and planting material,
- registration of varieties of cereals, oleiferous and fibre plants, beets, fodder plants and potatoes, vegetables and ornamental plants and grape vine,
- supervision of the work of authorised laboratories,
- supervision of the work of authorised samplers,
- supervision of the work of authorised variety maintainers,
- conservation of plant genetic resources of agricultural plants,
- verification whether a laboratory, variety maintainer or seed sampler fulfils the requirements for being entered in a relevant register,
- making entries into and maintaining the List of Varieties of Agricultural Plants of the Republic of Croatia (hereinafter: the List of Varieties of the Republic of Croatia), the National List of Varieties and the List of recommended Varieties,
- making entries into and maintaining the Register of Variety Maintainers.

(3) Activities in the area of registration of varieties of fruit species shall be carried out by the Institute for Fruit Growing, which is an institution established by the Government of the Republic of Croatia.

(4) The Minister may, on the proposal of the Institute, authorise other natural persons to perform official inspections.

(5) For the purpose of monitoring the performance and the status of seed and nursery production, the institutes must, at least once a year, send to the Ministry a report on the carrying out of the tasks falling within their sphere of competence.

#### Article 5

(1) For the purpose of monitoring the developments in the seed sector, planting material production and variety registration, and giving official opinions and proposals in this field, the following commissions shall be established within the Ministry:

1. Commission for agricultural seed production,
2. Commission for agricultural nursery production,
3. Commission for the registration of varieties of arable crops, vegetables and ornamental plants,
4. Commission for the registration of varieties of fruit species,
5. Commission for the registration of grape vine varieties,
6. Commission for plant genetic resources.

(2) The Commissions referred to in paragraph 1 of this Article shall be established and their chairmen, members and secretaries appointed by the Minister by way of a decision published in the Official Gazette.

(3) The Minister may also set up other working bodies to accomplish specific tasks referred to in paragraph 1 of this Article.

#### Article 6

(1) The conservation of plant genetic resources of the Republic of Croatia shall be accomplished through a network of agricultural plant gene banks.

(2) The Minister shall prescribe the manner of operation and the organisation of the system for the conservation of plant genetic resources referred to in paragraph 1 of this Article.

#### Article 7

(1) In performing activities related to seed and nursery production and variety registration, the Ministry shall maintain the following registers:

1. a register of suppliers of agricultural seed (hereinafter: the Register of Seed Suppliers),
2. a register of suppliers of agricultural planting material (hereinafter: the Register of Planting Material Suppliers),
3. a register of laboratories for quality testing of agricultural propagating material (hereinafter: the Register of Laboratories),
4. a register of seed samplers (hereinafter: the Register of Samplers).

(2) Seed and planting material suppliers whose activity is confined merely to the marketing of seeds and planting material in such a way that they only distribute and sell them in the original packaging, and planting material producers who produce and market it in accordance with Article 44 of this Act shall not be entered in the supplier registers referred to in points 1 and 2 of paragraph 1 of this Article.

(3) When being entered in the registers referred to in points 1 and 2 of paragraph 1 of this Article, suppliers are registered for carrying out particular activities related to the production and marketing of agricultural propagating material.

(4) Suppliers may be registered in the registers referred to in points 1 and 2 of paragraph 1 of this Article for the following activities:

- breeding, variety maintenance, production, processing, importation and marketing of seeds, in the Register of Seed Suppliers,
- breeding, variety maintenance, production, importation and marketing of planting material, in the Register of Planting Material Suppliers.

(5) The Minister shall prescribe the conditions to be met by legal and natural persons for entry in the registers referred to in paragraph 1 of this Article, the registration of particular activities referred to in paragraph 4 of this Article and the register referred to in Article 4, paragraph 2, subparagraph 9 of this Act, as well as the contents of the registers and the manner of their keeping.

#### Article 8

(1) The Ministry or the Institute shall, within the scope of their respective competencies, at the request of legal and natural persons, issue decisions on their entry into the registers referred to in Article 4, paragraph 2 and Article 7, paragraph 1 of this Act, provided these legal and natural persons meet the requirements set out in this Act and regulations made under this Act.

(2) The Ministry or the Institute shall issue a decision removing a legal or natural person from the registers referred to in paragraph 1 of this Article if:

- such legal or natural person submits a request for removal from the relevant register,
- as a competent body, it establishes that such legal or natural person has ceased to meet the requirements set out in this Act and regulations made under this Act,
- as a competent body, it establishes that such legal or natural person has ceased to carry out the activities in respect of which that person was registered in accordance with this Act and regulations made under this Act.

(3) Removal from the registers referred to in paragraph 1 of this Article will also occur if the removal is determined to be a measure ordered by the competent inspection body, or if it is proposed by the Institute for reasons stated in the second and third indent of paragraph 2 of this Article.

(4) Registration and removal from a register, made pursuant to a final decision referred to in paragraphs 1 and 2 of this Article, shall be published in the Official Gazette and on the web pages of the Ministry.

## II SEED

### *1. Seed categories*

#### Article 9

- (1) The seed to which a category has been assigned during certification may be marketed.
- (2) Seed may be of the following categories: breeder's seed, pre-basic seed, basic seed, certified seed, certified seed of the first, second and third generation, standard seed and commercial seed.
- (3) The Minister shall prescribe the categories for particular plant species and the conditions that must be satisfied by individual seed categories in order to be certified through inspection.
- (4) The Minister may prescribe that after a specified date only certain seed categories may be placed on the market.

### *2. Seed production*

#### Article 10

- (1) Seed may be produced by legal and natural persons who are entered and registered in the Register of Seed Suppliers.
- (2) A seed supplier may produce seed and apply for official inspection of the seed production only if the variety is included in the List of Varieties of the Republic of Croatia or the National List of Varieties or is in the last year of the registration procedure.
- (3) For certain species of herbs, aromatic plants and spices, the Minister may, by way of derogation from the provision of paragraph 2 of this Article, allow the production of seed and application for official inspection.
- (4) A seed supplier must, not later than 15 days after seed harvesting, inform the Institute about the quantity of seed produced.

#### Article 11

- (1) The Minister will prohibit the use of genetically modified varieties in all or part of the territory of the Republic of Croatia, or will lay down appropriate conditions for cultivation, where it is established that the cultivation of a genetically modified variety could be harmful

from the point of view of plant health to the cultivation of other varieties of the same species or other plant species, or where there are valid reasons for considering that a particular variety presents a risk for human health or the environment.

(2) If it is established that the cultivation of a variety which is included in the List of Varieties of the Republic of Croatia could be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, the Minister may, in the case of a genetically modified variety, prohibit the marketing of the seed of that variety in all or part of the territory of the Republic of Croatia.

(3) In the case referred to in paragraph 2 of this Article, where there is imminent danger of the spread of harmful organisms or imminent danger for human health or for the environment, the Minister shall issue a decision prohibiting the marketing of the seed or propagating material of that variety in all or part of the territory of the Republic of Croatia as soon as the application for approval has been lodged with a competent Community body.

#### Article 12

(1) A seed supplier may, for the account of a third-country customer, produce seed in the Republic of Croatia from imported seed of a variety not included in the List of Varieties of the Republic of Croatia, with the exception of genetically modified varieties.

(2) The seed referred to in paragraph 1 of this Article may be multiplied, subject to the authorisation of the Ministry, and on the basis of a contract with a foreign customer stipulating that the foreign customer shall buy the total quantity of natural or processed seed produced.

(3) The Institute may, at the request of the seed supplier, carry out an official inspection and issue an OECD certificate for international traffic, indicating that the seed is not intended for marketing.

(4) The seed referred to in paragraph 1 of this Article may not be placed on the market.

(5) The seed supplier must inform the competent inspection body about the production referred to in paragraph 1 of this Article.

(6) The Minister shall prescribe the conditions for and the manner of labelling the seed referred to in paragraph 1 of this Article.

#### *3. Inspection*

#### Article 13

(1) The crop or seed shall be subject to inspection during the growing of the seed crop, the harvesting, storage and processing.

(2) The inspection shall be carried out as an official inspection or an inspection under official supervision.

(3) A report shall be made of the inspection performed.

(4) The Minister shall prescribe the conditions and procedures for official inspection and inspection under official supervision of particular plant species and particular seed categories referred to in Article 9 paragraph 2 of this Act, as well as the form of the report referred to in paragraph 3 of this Article.

#### Article 14

(1) The official inspection of the production of seed shall be carried out by the Institute.

(2) For certain plant species and their categories, the Institute may allow a seed supplier to

carry out an inspection of his own production under official supervision.

(3) For the purposes of the inspection referred to in paragraphs 1 and 2 of this Article, seed suppliers shall notify the Institute of the production of all categories carried out at all locations which they own or use or which are covered by a contractual production agreement.

(4) After each crop inspection, the Institute shall submit a report to the Ministry on the inspection performed.

(5) The Minister shall prescribe the training programme and the conditions for authorising persons to carry out the inspection referred to in paragraph 1 of this Article, the conditions relating to persons authorised to carry out the inspection, the conditions to be met by seed suppliers referred to in paragraph 2 of this Article, the manner and time of application for inspection, and the form of the report.

#### Article 15

(1) A field inspection of a seed crop during production shall determine the origin of the seeds used, species purity, varietal identity and purity, the health status of the crop, and the seed category.

(2) Following the field inspection of the seed crop, and on the basis of favourable findings, the Institute or the seed supplier shall, within their competence, issue a seed crop certificate (hereinafter: the certificate).

(3) The Institute and the seed supplier shall keep records of issued certificates referred to in paragraph 2 of this Article.

(4) The Minister shall prescribe the form of the certificate provided for in paragraph 2 of this Article, as well as the contents and form of the records referred to in paragraph 3 of this Article and the manner of maintaining them.

#### 4. Seed processing

#### Article 16

(1) Seed processing includes drying, cleaning, sizing, coating, treatment with plant protection products, packaging, sealing and labelling.

(2) Seed may be processed by a legal or natural person who is entered and registered in the Register of Seed Suppliers.

(3) A seed supplier must not process natural seeds for which an inspection report or a certificate has not been issued.

(4) A seed supplier must keep records of the quantities of incoming natural seeds and of processed seeds.

(5) The Minister shall prescribe the contents and form of the records referred to in paragraph 4 of this Article and the manner of maintaining them.

#### Article 17

(1) During processing, a seed supplier is allowed to prepare seed mixtures of different species and varieties combined in different proportions.

(2) The seeds of each species and variety making up the seed mixture referred to in paragraph 1 of this Article must be individually certified.

(3) The Minister shall prescribe the conditions concerning the preparation of seed mixtures and the method of inspection of the preparation of seed mixtures.



Article 18

- (1) During harvesting, transportation, storage and all stages of processing, natural seed must be kept separate, labelled and under supervision.
- (2) Natural seed transported from the field to a storage or processing facility must be accompanied by the information about the producer, production area, quantity, species, variety and category of the natural seed.
- (3) In the case of the marketing of natural seed, the Institute may, by way of derogation from the provisions of Article 20, paragraph 1 and Article 23 of this Act, issue for such seed a certificate for not finally certified seed, provided the certificate referred to in Article 15, paragraph 2 of this Act has been issued for such seed, and provided the seed is packed and labelled, and marketed by a supplier who is entered and registered in the Register of Seed Suppliers.
- (4) The Minister shall prescribe the requirements for the inspection and the methods of handling seed in the stages referred to in paragraph 1 of this Article, as well as the manner of packaging and labelling the seed referred to in paragraph 3 of this Article.

*5. Seed quality*

Article 19

- (1) Within the meaning of this Act, the quality of seed is determined by its purity, germination, moisture content, seed health, and species and varietal purity.
- (2) Seed intended for marketing must comply with the minimum quality requirements set out in paragraph 6 of this Article.
- (3) Prior to marketing, seed quality must be determined for each seed lot.
- (4) Seed quality shall be determined on a seed sample taken by a seed sampler who is registered in the Register of Seed Samplers.
- (5) Seed quality shall be determined by a laboratory which is registered in the Register of Laboratories and which issues a seed quality report.
- (6) The Minister shall prescribe the minimum seed quality requirements, the size of a seed lot for particular plant species and their mixtures, professional training of seed samplers referred to in paragraph 4 of this Article, the methods of sampling and analyzing the quality of seed, the inspection of the work of seed samplers and of laboratories referred to in paragraph 5 of this Article.
- (7) If the Institute, during the inspection of the work of a laboratory or a seed sampler, establishes that they do not meet the requirements set out in this Act or regulations made under this Act, the Institute shall order the measures and deadlines for removing the established deficiencies, and in the case of the failure to remove those deficiencies or of recurring deficiencies, the Ministry shall, on the proposal of the Institute, issue a decision permanently or temporarily removing such laboratory or seed sampler from the relevant register.
- (8) Responsibility for the quality of seed shall lie with the seed supplier who markets the seed.

*Issue of seed certificates*

Article 20

- (1) The Institute shall issue a seed certificate if the inspection results and the seed quality report prove that the produced seeds satisfy all the requirements set out in this Act and

regulations made under this Act.

(2) The Institute shall issue a seed certificate on an application by a seed supplier who is entered and registered in the Register of Seed Suppliers.

(3) The Institute and the seed supplier referred to in paragraph 2 of this Article shall respectively keep records of seed certificates issued and of the seed for which an application for the issuance of a seed certificate has been made.

(4) The seed supplier must make it possible for the Institute to verify the proper use of the seed certificates issued.

(5) The Institute shall approve the official inspection results and the particular category and shall issue a seed certificate for the seed of a particular plant species:

– which has been produced directly from certain higher seed categories which have been inspected and for which an appropriate seed certificate has been issued in one or more Community Member States or in a third country in which the certification procedure is equivalent to the procedure provided for by the Community legislation or which has been produced from the crossing of certain higher seed categories certified in a Community Member State with certain higher seed categories certified in a third country in which the certification procedure is equivalent to the procedure provided for by the Community legislation, and

– if it has been harvested in another Community Member State and if a field inspection has confirmed that the seed satisfies the conditions for the issuance of the certificate referred to in paragraph 2 of Article 15 of this Act and if the quality requirements referred to in paragraph 6 of Article 19 of this Act for that category are satisfied.

(6) Where, in cases referred to in paragraph 5, the seed has been produced from certified seed of generations prior to basic seed, the Institute shall approve such seed as basic seed, if the seed satisfies other conditions laid down for that category.

(7) Seed which satisfies the requirements set out in paragraphs 5 and 6 of this Article shall be packed, sealed and labelled in accordance with paragraphs 1, 2 and 3 of Article 23 of this Act, and shall be issued a special label for seed not finally certified, which must accompany the dispatch note and be attached to the packaging.

(8) The packaging and labelling requirements referred to in paragraph 7 of this Article may be waived if the Institute and the competent authority of a Community Member State agree on the exemption from the packaging and labelling requirements.

(9) The Institute shall approve the official inspection results and the particular category and shall issue a seed certificate for the seed of a particular plant species:

– which has been produced directly from certain higher seed categories which have undergone official inspection and for which an appropriate seed certificate has been issued in one or more Community Member States or in a third country in which the certification procedure is equivalent to the procedure provided for by the Community legislation or which has been produced from the crossing of certain higher seed categories certified in a Community Member State with certain higher seed categories certified in a third country, and

– if it has been harvested in a third country in which the certification procedure is equivalent to the procedure provided for by the Community legislation, and if a field inspection has confirmed that the seed satisfies the conditions for the issuance of the certificate referred to in paragraph 2 of Article 15 of this Act and if the quality requirements referred to in paragraph 6 of Article 19 of this Act for that category are satisfied.

(10) In the case of seed of generations prior to basic seed, the Institute shall issue a seed certificate and approve such seed as basic seed, if the seed satisfies the conditions for the issuance of the certificate for the basic seed category in accordance with paragraph 1 of this Article, and such seed may only be marketed if it satisfies the packaging, sealing and labelling requirements set out in this Act.

(11) The Minister shall prescribe, for individual plant species, the form of the application for the issuance of the seed certificate referred to in paragraph 2 of this Article, the necessary documents, the contents and form of the records referred to in paragraph 3 of this Article and the manner of keeping them, the manner of verification referred to in paragraph 4 of this Article, more detailed conditions concerning seed certification and higher categories of seed of individual species to which provisions of paragraphs 5 and 9 of this Article apply, the conditions of packaging, sealing and labelling referred to in paragraph 7 of this Article, more detailed conditions concerning seed certification and the labelling of the seed referred to in paragraph 10 of this Article.

#### Article 21

(1) For certain plant species and their seed categories which are subject to inspection under official supervision, the supplier must keep seed samples and maintain records of all seed lots marketed.

(2) The Minister shall prescribe to which the plant species and seed categories the provision of paragraph 1 of this Article shall apply, and shall prescribe the requirements for inspection procedure and the issuance of seed certificates for the seed referred to in paragraph 1 of this Article, the manner of seed sampling and of keeping seed samples, as well as the keeping of records referred to in paragraph 1 of this Article.

(3) By way of derogation from paragraph 1 of Article 20 of this Act, the Institute may issue a seed certificate, and seed may be marketed:

– when the basic seed category does not satisfy the minimum requirements referred to in paragraph 6 of Article 19 of this Act in respect of germination. In order to be issued a seed certificate, the supplier must state and guarantee a specific germination and comply with specific requirements as to the labelling of such seed,

– when certification has not been concluded since the seed does not have a final germination test report issued by the authorised laboratory, but has a provisional analytical report, and the seed supplier guarantees the germination stated in the provisional report. In order to make seed of the categories «basic seed» and «certified seed», including «commercial seed» of certain plant species and categories, rapidly available, such seed may be marketed as far as the first buyer whose name and address is known, with specific requirements as to the labelling of such seed.

(4) The provisions of paragraph 3 of this Article shall not apply to seed imported and originating from third countries.

(5) The manner of labelling the seed referred to in paragraph 3 of this Article shall be prescribed by the Minister.

#### Article 22

(1) The Institute shall undertake post-control of produced and imported seed of plant species and categories referred to in paragraph 1 of Article 21 of this Act in order to verify species purity and varietal authenticity and purity.

(2) If, during post-control tests, the Institute finds that the seed does not satisfy the conditions set forth in the seed certificate, it shall propose to the Ministry that the seed supplier be

permanently or temporarily removed from the Register of Seed Suppliers.

(3) The Minister shall prescribe the manner and conditions of conducting post-control for particular plant species.

*6. Seed packaging, sealing and labelling*

Article 23

(1) Seed shall be marketed in homogenous lots, in original packages labelled with a seed certificate which shall be of the colour prescribed for the relevant seed category, and the integrity of the package must be ensured.

(2) The Minister shall prescribe, for individual plant species and their categories, the method and conditions of packaging, sealing and labelling the seed referred to in paragraph 1 of this Article.

(3) Seed intended for marketing must have, in addition to the seed certificate referred to in paragraph 1 of this Article, a seed certificate accompanying the dispatch note, which shall be of the colour prescribed for the relevant seed category.

(4) In addition to the seed certificate referred to in paragraph 1 of this Article, a seed package may be labelled with a supplier's certificate.

(5) If all necessary measures have been taken to ensure that the identity of the seed can be verified at the time when seed lots are divided up, certain categories of seed may be allowed to be marketed in small packages which are originally packaged and sealed under official supervision or under inspection under official supervision.

(6) In the case of seed marketed in small packages, derogations may be made from the provisions of paragraphs 1 and 2 of this Article in respect of packaging, sealing and labelling.

(7) By way of derogation from the provisions of paragraphs 1 and 2 of this Article, the Institute may authorise suppliers to place on the market small packages of mixtures of standard seed of different vegetable species and varieties.

(8) By way of derogation from the provisions of paragraphs 1 and 2 of this Article, the Minister may authorise the marketing of small quantities of seed which are intended for the final consumer.

(9) The Minister shall prescribe the form of the seed certificate and the detailed labelling requirements referred to in paragraphs 3 and 4 of this Article, derogations as regards the packing, sealing and labelling of small packages referred to in paragraph 6 of this Article, the weight of small packages for particular plant species, the method of and the conditions for packing, sealing and labelling the seed referred to in paragraph 7 of this Article, derogations as regards the packaging of small quantities of seed referred to in paragraph 8 of this Article.

Article 24

(1) In the case of seed of a variety which has been genetically modified, seed certificates which are affixed to the packaging and all the documents, official or otherwise, which are affixed to or accompany the seed, shall clearly and visibly indicate that the variety has been genetically modified, prominently bearing the words «genetically modified organism».

(2) If seed has been treated with chemicals or plant protection products, this must be indicated on the seed certificate, and on the package or inside it; for small packages, this information may be printed directly on small packages.

(3) The Minister shall set out detailed conditions for and the manner of labelling seeds referred to in paragraphs 1 and 2 of this Article.

Article 25

- (1) Original seed packages shall not be opened, packed, sealed or labelled, whether one or more times, except under official supervision.
- (2) After re-packing and re-sealing, as provided for in paragraph 1 of this Article, a new seed certificate to be affixed to the packaging and a seed certificate to accompany the dispatch note shall be issued on which the fact of resealing, the most recent date of resealing and the authority responsible for supervision shall be stated.
- (3) The Minister shall prescribe detailed conditions and operations related to the submission of applications for re-sealing and re-packing of the seed referred to in paragraph 1 of this Article, and the manner of labelling referred to in paragraph 2 of this Article.

*7. Marketing of seed*

Article 26

Seed may be placed on the market if:

- it has a seed certificate referred to in paragraph 1 of Article 20 of this Act and if it satisfies the conditions stated in the seed certificate,
- it satisfies the minimum quality requirements referred to in paragraph 6 of Article 19 of this Act,
- it satisfies the requirements referred to in Article 23 of this Act in respect of packaging, sealing and labelling of seed,
- it belongs to a variety which is included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties is obligatory,
- the supplier who places the seed on the market is entered and registered in the Register of Seed Suppliers, except in the case of a supplier for whom the registration in the Register is not obligatory pursuant to paragraph 2 of Article 7 of this Act.

Article 27

- (1) Seed may be placed on the market by legal persons established in the Republic of Croatia or natural persons residing in the Republic of Croatia, who are registered for such activity.
- (2) In order to engage in wholesale and retail trade in seed, the persons referred to in paragraph 1 of this Article must have suitably qualified staff.
- (3) The Minister shall prescribe specific conditions for wholesale and retail trade in seed, as well as the conditions relating to paragraph 2 of this Article.

Article 28

- (1) By way of derogation from Article 26 of this Act, the Minister may issue a decision authorising:
  - seed suppliers who are engaged in selection and scientific-research work in seed production to place on the market small quantities of seed for scientific or selection purposes,
  - breeders or maintainers, or their representatives, to place on the market, for the purposes of trial production, and for a limited period, small quantities of seed belonging to a variety for which an application and all the documents necessary for inclusion in the List of Varieties of the Republic of Croatia have been submitted.
- (2) For seed belonging to the varieties which are included in the List of Varieties of the Republic of Croatia and which are indicated as “conservation plant genetic resources”, the

Minister may, for the purpose of in situ conservation of those varieties, issue a decision authorising the marketing of the seed of those varieties by defining the area in which the seed may be marketed and the quantities of seed.

(3) In the case of shortages in seed supply, the Minister may issue a decision authorising, for a specified period, the marketing of:

– seed of certain higher categories which does not satisfy the prescribed requirements for the issuance of the seed certificate referred to in paragraph 1 of Article 20 of this Act, particularly as regards germination and moisture content, and the authorisation shall define the minimum requirements which such seed must meet, or

– seed of a variety not included in the List of Varieties of the Republic of Croatia.

(4) For particular plant species, the Minister shall set out the requirements and issue a decision authorising the marketing of:

– seed treated with chemicals or plant protection products,

– seed which satisfies the requirements for organic production in agriculture.

(5) For particular plant species, the Minister shall prescribe the detailed conditions and the quantity for which a marketing authorisation shall be issued in accordance with the first indent of paragraph 1 of this Article, the detailed requirements as to the time period and the quantity of seed, the requirements concerning the production, marketing, packaging and labelling of the seed referred to in the second indent of paragraph 1 of this Article, the requirements and the quantity of seed which may be placed on the market in accordance with paragraph 2 of this Article, the categories to which the provisions of the first indent of paragraph 3 of this Article shall apply and the manner of labelling seed which is placed on the market pursuant to paragraph 3 of this Article, as well as the requirements for the marketing of the seed referred to in paragraph 4 of this Article.

#### *8. Importation of seed*

##### Article 29

(1) Seed may be imported by a seed supplier who is entered and properly registered in the Register of Seed Suppliers.

(2) Seed may only be imported and marketed if it belongs to a variety included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties of the Republic of Croatia is obligatory, and if the seed is equivalent to seed produced according to this Act.

(3) Seed originating in third countries and being imported shall be considered equivalent to seed produced in accordance with this Act if:

– the laws of the country in which the seed was produced ensure, as regards the quality of and the requirements and procedures for conducting inspection as well as the general application of those laws, that such seed complies with the requirements set out in this Act, or

– the seed has been produced and processed in accordance with international seed certification schemes.

(4) The Institute shall, upon the order of the Ministry or on its own initiative or at the request of the supplier, check whether the conditions for recognition of equivalence referred to in paragraph 3 of this Article are met.

(5) The importation of seed from third countries may be permitted if the competent Community authority has approved that the seed produced in the third country concerned is

equivalent to seed produced in accordance with this Act.

(6) Seed imported by another Community Member State from third countries with the approval referred to in paragraph 5 of this Article shall be subject to no marketing restrictions under this Act.

(7) The importer must maintain records of imported quantities exceeding 2 kilograms of seed and keep the Institute informed thereof.

(8) Exceptionally, the Minister may issue a decision permitting the importation of seed not finally certified, provided the seed has a seed certificate issued by the competent authority and is granted equivalence referred to in paragraph 3 of this Article, and such seed may be marketed, for the purpose of being processed, as far as the seed processor who will process it.

(9) The Minister shall prescribe the documents which must accompany seed and/or be affixed to its packaging on importation and which are issued by the competent authority referred to in paragraph 8 of this Article in order to ensure equivalence referred to in paragraphs 3 and 8 of this Article, the import and marketing conditions relating to packaging, sealing and labelling, as well as the keeping of records and reporting referred to in paragraph 7 of this Article.

#### Article 30

Responsibility for the quality of imported seed shall lie with the supplier who imports the seed and places it on the market.

#### Article 31

(1) The provisions of this Act concerning the importation and marketing of seed shall not apply to seed which scientific and scientific-educational institutions receive or send for tests, for research purposes, for selection work, for the purposes of registration and protection of new plant varieties, for the needs of the plant gene bank and for the purposes of the conservation of genetic diversity.

(2) A decision permitting the importation of seed referred to in paragraph 1 of this Article shall be issued by the Minister.

(3) The Minister shall prescribe the quantities of seed referred to in paragraph 1 of this Article.

### III PLANTING MATERIAL

#### *1. Planting material and its categories*

#### Article 32

(1) Planting material which is produced and marketed may be of the following categories: initial or pre-basic, basic, certified, standard or CAC (Conformitas Agraria Communitatis) category.

(2) The Minister shall prescribe the categories for particular plant species, the requirements for individual categories as to the origin of the material, authenticity of the variety and of the rootstock, the level of vegetative development and the health status, and shall specify the planting material of plant species for which the classification into categories is not provided for.

(3) The Minister shall prescribe the genera, species and hybrids to which the provisions relating to planting material, stipulated in this Act and regulations made under this Act, shall apply.

#### *2. Production of planting material*

Article 33

- (1) Planting material may be produced by legal and natural persons who are entered and registered in the Register of Planting Material Suppliers.
- (2) After being entered in the Register referred to in paragraph 1 of this Article, the suppliers must, in addition to complying with the requirements referred to in paragraph 5 of Article 7 of this Article, continuously:
  - identify and monitor critical points in the production process,
  - establish and implement measures for monitoring and checking the critical points in the production process,
  - take samples and analyse the quality of planting material in an accredited laboratory for the purpose of checking whether planting material meets the quality requirements set out in this Act and regulations made under this Act,
  - keep a written record of the activities required by the first, second and third indents of this Article, as well as records on the production, buying, selling and delivery of planting material.
- (3) In order to control the implementation of the provisions of paragraph 2 of this Article, the competent inspection body shall make an annual inspection of the work of the planting material suppliers and their premises, and shall have the right to propose permanent or temporary removal of a planting material supplier from the Register of Planting Material Suppliers.
- (4) The Ministry, on the proposal of the competent inspector, shall remove the planting material supplier from the Register of Planting Material Suppliers either permanently or for a specified period of time.
- (5) Plant material suppliers referred to in paragraph 2 of Article 7 of this Act whose activity is confined merely to distribution and sale of planting material must keep written records of buying, selling and delivery of planting material.
- (6) The Minister shall prescribe the measures, actions and records, and the conditions to be met by suppliers, referred to in paragraph 2 of this Article, the method of conducting the inspection provided for in paragraph 3 of this Article, as well as the form and the manner of keeping records referred to in paragraph 5 of this Article.
- (7) Specific conditions for in vitro production of planting material shall be prescribed by the Minister.
- (8) The provisions of Article 11 of this Act relating to genetically modified varieties shall equally apply to planting material.

Article 34

- (1) A planting material supplier may, for the account of a third-country customer, produce planting material which does not comply with the requirements of this Act and regulations made under this Act, with the exception of genetically modified varieties.
- (2) The planting material referred to in paragraph 1 of this Article may be produced, subject to the authorisation of the Ministry, and on the basis of a contract with a foreign customer stipulating that the foreign customer shall buy the total quantity of planting material produced.
- (3) The Institute may, at the request of the planting material supplier, carry out an official inspection over production and issue a certificate for planting material stating that the planting material is not intended for marketing.



- (4) The production of planting material referred to in paragraph 1 of this Article must be under phytosanitary supervision and spatially isolated from the production intended for marketing in accordance with this Act, and the planting material must be specially marked.
- (5) The planting material referred to in paragraph 1 of this Article may not be marketed.
- (6) The competent inspection body shall monitor compliance with the provisions of paragraphs 2 and 4 of this Article in the part relating to control of export and isolation.
- (7) The Minister shall prescribe the manner of marking provided for in paragraphs 3 and 4 of this Article, the requirements for isolation, as well as the conditions for and the manner of control provided for in paragraph 6 of this Article.

#### Article 35

- (1) While growing or during removal from the parent material, as well as during packaging, sealing, storage and transport, planting material must be kept in separate lots and identified.
- (2) If planting material of different origins is put together or mixed during packaging, storage, transport or at delivery, the supplier must make a written record of the composition of the lot and origin of its individual components.
- (3) The control of suppliers to verify the implementation of paragraphs 1 and 2 of this Article shall be conducted by the Institute through the supervision provided for in Article 39 of this Act.
- (4) The conditions referred to in paragraphs 1 and 2 of this Article, and the manner and the procedure of supervision referred to in paragraph 3 of this Article shall be prescribed by the Minister.

### 3. *Planting material quality*

#### Article 36

- (1) Within the meaning of this Act, the quality of planting material is determined by its origin, authenticity of the variety and of the rootstock, vegetative development and the health status.
- (2) Quality requirements for planting material for individual plant species shall be prescribed by the Minister.

#### Article 37

- (1) Planting material intended for marketing must comply with the prescribed quality requirements set out in paragraph 2 of Article 36 of this Act.
- (2) In the event of temporary difficulties in the supply of planting material, the Minister may, by way of derogation from paragraph 1 of this Article, authorise the placing on the market of planting material meeting less stringent quality requirements regarding the level of vegetative development, but without prejudice to the requirements concerning the health status of such planting material.
- (3) The supplier who places the planting material on the market shall be responsible for its quality.

#### Article 38

- (1) For the purpose of quality control of planting material, the planting material shall be analysed in a laboratory.
- (2) The analysis referred to in paragraph 1 of this Article shall be performed in a laboratory registered in the Register of Laboratories referred to in point 3 of paragraph 1 of Article 7 of this Act.

(3) Upon completing the analysis, the laboratory shall issue a report on the quality of the planting material.

(4) The Institute shall supervise the work of laboratories and shall have the right to remove a laboratory from the Register of Laboratories, either permanently or for a specified period of time.

(5) The Minister shall prescribe the necessary analyses for individual plant species, the authorisation of persons to take samples, the method of and the conditions for sampling, as well as the manner of conducting the supervision of the work of laboratories referred to in paragraph 4 of this Article.

#### *4. Inspection of the production of planting material*

##### Article 39

(1) The inspection performed by the Institute is considered to be an official inspection of planting material.

(2) The planting material supplier itself may conduct an inspection of its production of planting material as an inspection under official supervision, provided it satisfies the requirements to be prescribed by the Minister.

(3) The inspection of planting material shall determine the origin of the planting material used, authenticity of the variety and of the rootstock, the level of vegetative development, the health status and the planting material category.

(4) The Minister shall prescribe the plant species and planting material categories which are subject to official inspection and the planting material categories for which inspection under official supervision may be performed, the conditions and procedure for official inspection and inspection under official supervision, the requirements to be met by persons who carry out inspections, the programme of training for carrying out inspections, the manner of conducting post-control of inspections performed by authorised persons, as well as the conditions relating to authorised persons.

##### Article 40

(1) A planting material supplier shall notify the Institute of the production of all categories of planting material carried out at all locations which it owns or uses or which are covered by a contractual production agreement.

(2) Based on the notification referred to in paragraph 1 of this Article, the Institute shall perform inspection.

(3) Following the inspection of the production of planting material, and on the basis of favourable findings, the Institute or the planting material supplier shall, within their competence, issue a planting material certificate (hereinafter »the planting material certificate«).

(4) The Minister shall prescribe the form of the notification referred to in paragraph 1 of this Article and the deadline for its submission, as well as the form of the planting material certificate.

##### Article 41

(1) If, during the inspection:

- of a supplier, pursuant to paragraph 2 of Article 33 of this Act,
- of a supplier and its production, performed by the Institute during official inspection or

inspection under official supervision,

– performed on the market by the responsible inspection body, or during the post-control performed by the Institute, it is found that the planting material does not meet the requirements of this Act and regulations made under this Act, the responsible inspection body or the Institute shall order that appropriate measures be taken to ensure that the planting material does comply with the requirements of this Act and regulations made under this Act.

(2) If after implementing the ordered measures referred to in paragraph 1 of this Article, the planting material still fails to meet the requirements of this Act and regulations made under this Act, the responsible inspection body shall, on its own initiative or on the proposal of the Institute, issue a decision banning its marketing.

(3) The planting material for which a decision referred to in paragraph 2 of this Article has been issued must be destroyed by the planting material supplier under the supervision of the responsible inspector.

(4) If, during the implementation of the measures referred to in paragraph 1 of this Article, a supplier is issued a decision ordering the measure referred to in paragraph 2 of this Article twice in one year, the responsible inspector shall, on his/her own initiative or on the proposal of the Institute, order that the planting material supplier be temporarily removed from the Register of Planting Material Suppliers for a maximum period of 180 days.

(5) If, within two years after the expiry of the period specified in paragraph 4 of this Article, the planting material supplier is again issued a decision ordering the measure referred to in paragraph 2 of this Article, the responsible inspector shall, on his own initiative or on the proposal of the Institute, order that the supplier be permanently removed from the Register of Planting Material Suppliers.

(6) The Minister shall prescribe the conditions for and the manner of conducting post-control of planting material for individual plant species.

#### Article 42

(1) At the request of the planting material supplier and on the basis of the certificate of planting material registration, the Institute shall issue a planting material certificate to be affixed to the packaging and to accompany the dispatch note.

(2) The Institute shall keep records of issued planting material certificates intended to be affixed to the packaging.

(3) The planting material supplier must make it possible for the Institute to verify the proper use of the planting material certificates issued.

(4) The planting material supplier must submit an annual report to the Institute on the types and quantities of sold and unsold planting material as well as on unused planting material certificates issued by the Institute.

(5) The Institute must keep records of the nursery production subjected to inspection, specifying the species, variety, rootstock and quantity of planting material, and must annually inform the Ministry thereof.

(6) The Minister shall prescribe the form of the application and of the certificate referred to in paragraph 1 of this Article, the records referred to in paragraph 2 of this Article, the manner of reporting, the keeping of planting material certificates, and how to deal with unused planting material certificates referred to in paragraph 4 of this Article.

#### *5. Packaging, sealing and labelling of planting material*

Article 43

- (1) Planting material shall be marketed in homogenous lots, originally packed and sealed, labelled with a planting material certificate affixed to the packaging and accompanied with a planting material certificate accompanying the dispatch note, which certificates shall be of the colour prescribed for the relevant planting material category.
- (2) The Minister shall provide for derogations from the provisions of paragraph 1 of this Article in respect of seedlings planted in pots, baskets or boxes.
- (3) In the case of marketing of planting material of a variety which has been genetically modified, planting material certificates which are affixed to the packaging or accompany the dispatch note and all the documents, official or otherwise, which are affixed to or accompany the planting material, shall clearly and visibly indicate that the planting material variety has been genetically modified, and shall prominently bear the words «genetically modified organism».
- (4) In the case of the retail sale of planting material to a non-professional final consumer at the place of production, the labelling requirements referred to in paragraph 1 of this Article may be simplified.
- (5) The Minister shall prescribe the manner of packaging, sealing and labelling of planting material referred to in paragraph 1 of this Article, and the manner of labelling referred to in paragraph 4 of this Article for individual plant species and their categories.

Article 44

- (1) Production and placing on the market of planting material produced by «small producers» and intended for final use by persons on the local market who are not professionally involved in plant production ('local circulation') shall be exempt from the application of the provisions of paragraphs 1 and 2 of Article 33 of this Act in respect of controls of suppliers, from Article 39 of this Act in respect of inspections, and from the marketing requirements provided for in Article 45 of this Act.
- (2) Requirements relating to the definition of "small producers" and "local circulation" referred to in paragraph 1 of this Article and requirements for marketing of planting material thus produced shall be prescribed by the Minister.

*6. Marketing of planting material*

Article 45

Planting material may be placed on the market if:

- it has a planting material certificate referred to in paragraph 1 of Article 42 of this Act,
- it satisfies the quality requirements referred to in paragraph 2 of Article 36 of this Act and regulations made under this Act,
- it satisfies the requirements referred to in Article 43 of this Act and regulations made under this Act as to packaging, sealing and labelling of planting material,
- it belongs to a variety which is included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties is obligatory,
- the supplier who places it on the market is entered and registered in the Register of Planting Material Suppliers, except in the case of a supplier for whom the registration in the Register is not obligatory pursuant to paragraph 2 of Article 7 of this Act.

Article 46

(1) Planting material may be placed on the market by legal persons established in the Republic of Croatia or natural persons residing in the Republic of Croatia, who are registered for such activity.

(2) In order to engage in wholesale and retail trade in planting material, the persons referred to in paragraph 1 of this Article must have suitably qualified staff.

(3) The Minister shall prescribe specific conditions for wholesale and retail trade in planting material, as well as the conditions relating to paragraph 2 of this Article.

#### *7. Importation of planting material*

##### Article 47

(1) Planting material may be imported by an importer who is entered and registered in the Register of Planting Material Suppliers.

(2) Planting material may be imported and marketed if it belongs to a variety included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties of the Republic of Croatia is obligatory, and if it is equivalent to planting material produced according to this Act.

(3) Planting material originating in third countries and being imported shall be considered equivalent to planting material produced in accordance with this Act if the laws of the country in which the planting material was produced ensure, as regards the quality requirements and the requirements and procedures for conducting official inspection, or supplier's checks, as well as the obligations of suppliers and the general application of those laws, that such planting material complies with the requirements set out in this Act.

(4) The Institute shall, upon the order of the Ministry or on its own initiative or on the proposal of the importer, check whether the conditions for recognition of equivalence of planting material in another country are met.

(5) The importation of planting material from third countries may be permitted if the competent Community authority has approved that the planting material produced in the third country concerned is equivalent to planting material produced in accordance with this Act.

(6) Planting material imported by another Community Member State from third countries with the approval referred to in paragraph 5 of this Article shall be subject to no marketing restrictions under this Act.

(7) The importer of planting material must maintain records and submit a report to the Institute on the importation of planting material.

(8) The Minister shall prescribe the documents which must accompany planting material or be affixed to its packaging on importation and which are issued by the competent authority in order to ensure equivalence referred to in paragraph 3 of this Article, the conditions for the import and marketing of planting material relating to packaging, sealing and labelling, as well as the records and reports referred to in paragraph 7 of this Article.

##### Article 48

Responsibility for the quality of imported planting material shall lie with the supplier who has imported and marketed the planting material concerned.

##### Article 49

(1) The provisions of this Act concerning the importation and marketing of planting material shall not apply to planting material which scientific and scientific-educational institutions receive or send for tests, for research purposes, for selection work, for the needs of the plant

gene bank and for the purposes of the conservation of genetic diversity.

(2) A decision permitting the importation of planting material referred to in paragraph 1 of this Article shall be issued by the Minister.

(3) The Minister shall prescribe the quantities of planting material referred to in paragraph 1 of this Article.

#### IV ENTRY OF A VARIETY IN THE LIST OF VARIETIES

##### Article 50

(1) The List of Varieties of the Republic of Croatia is an official list of varieties of certain plant species.

(2) After a variety is entered in the List of Varieties of the Republic of Croatia, agricultural propagating material of that variety may be produced, registered for official inspection and imported and/or placed on the market.

(3) The Minister shall specify the plant species for which the entry in the List of Varieties of the Republic of Croatia is obligatory, as well as the species which are exempt from the obligation to be entered in the List of Varieties of the Republic of Croatia.

(4) The Minister shall prescribe the conditions under which agricultural propagating material of plant species referred to in paragraph 3 of this Article, for which the entry in the List of Varieties of the Republic of Croatia is not obligatory, may be marketed with a reference to a variety, as well as specific variety lists and their maintenance.

(5) A seed supplier may produce, enter for inspection, market and import seed of a variety which has been removed from the List of Varieties of the Republic of Croatia, for a period expiring not later than 30 June of the third year following the removal of the variety from the List of Varieties of the Republic of Croatia.

##### Article 51

(1) To become eligible for inclusion in the List of Varieties of the Republic of Croatia, a variety must be registered.

(2) A variety registration procedure includes the verification of the variety denomination in accordance with Article 55 of this Act and the testing for particular properties referred to in points 1 and 2 of paragraph 2 of Article 59 of this Act.

##### *1. Submission of application*

##### Article 52

(1) The variety registration process is initiated by filing an application with the Institute, or the Institute for Fruit Growing (hereinafter: the competent institute).

(2) An application for variety registration (hereinafter referred to as the “application”) shall be filed by the breeder of the variety, its authorised agent or representative (hereinafter referred to as “the applicant”).

(3) In addition to the application for variety registration, an authorized agent or representative of the owner shall submit a letter of authorisation.

(4) The Minister shall prescribe the documents which are to accompany an application for variety registration, and the form of the application referred to in paragraph 2 of this Article.

(5) The applicant submitting an application for registration of a genetically modified variety must submit, in addition to the documents referred to in paragraph 4 of this Article, an authorisation issued by the competent authority for the deliberate release of a genetically

modified organism into the environment pursuant to a separate regulation.

Article 53

The information contained in the application which relates to the origin of the initial material and to the description of the procedure used for the development of a new variety, shall be regarded as an official secret.

*2. Evaluation of applications*

Article 54

(1) After receiving an application, the competent institute shall determine whether the application is complete.

(2) If the competent institute determines that the application is not complete, it shall notify the applicant and require it to correct the identified deficiencies within 30 days.

(3) If, within the period specified in paragraph 2 of this Article, the applicant fails to correct the deficiencies, the application will be rejected.

Article 55

(1) During the variety registration procedure, the competent institute shall verify whether the variety denomination meets the prescribed requirements and shall publish the proposed denomination in the official gazette of the institute.

(2) Anyone who proves to have a legal interest may make a written complaint to the competent institute about the proposed variety denomination, within three months of the date on which the proposed denomination was published in the official gazette of the Institute.

(3) If it is found by the competent institute that the proposed variety denomination is not suitable, or that the complaint is justified, the institute shall require the applicant to propose another variety denomination within sixty days.

(4) If, after the registration of the variety and its inclusion in the List of Varieties of the Republic of Croatia, it is found that the denomination of the registered variety is not acceptable, the Minister shall, on the proposal of the competent institute, issue a decision on the change of the variety denomination.

(5) The Minister shall prescribe conditions for determining the suitability of variety denominations.

*3. Variety examination*

Article 56

(1) The Institute shall timely notify the applicant that the variety will be included in a field trial and shall require it to submit the required quantity of propagating material for the field trial and laboratory tests.

(2) Following the notification referred to in paragraph 1 of this Article, the applicant is obliged to submit to the Institute, in a prescribed manner and not later than one month before planting or sowing, a specified quantity of propagating material.

(3) If the applicant fails to submit the required quantity of propagating material, or fails to submit it within the prescribed period of time, the Institute shall issue a decision rejecting the application.

(4) The Minister shall adopt regulations concerning the quantity and preparation of the propagating material referred to in paragraph 1 of this Article, and shall set the deadline for sowing or planting referred to in paragraph 2 of this Article.

Article 57

- (1) The Institute shall test the variety both in the field and in the laboratory.
- (2) The Minister shall prescribe the methods of testing, the manner of selecting a variety which is to serve as a standard, the number of locations at which field trials are to be conducted, and the test period for each plant species or group of similar plant species.

*4. Statistical analysis of data and evaluation of the value of a variety*

Article 58

- (1) The competent institute shall analyse the annual and final results obtained from field trials and laboratory tests.
- (2) The results referred to in paragraph 1 of this Article shall be processed according to a uniform method to be prescribed by the Minister.
- (3) The annual results shall be submitted to the applicant, while the final results of the variety tests shall be submitted to the competent commissions referred to in paragraph 1 of Article 5 of this Act for the purpose of evaluating the value of the variety.
- (4) The Institute shall ensure that the registration data are available for inspection by any legal or natural person who can prove a legal interest, with the exception of the data referred to in Article 53 of this Act.
- (5) If the variety registration process is suspended, the competent institute shall ensure that the variety testing data are made available to legal and natural persons who are affected by such decision.

Article 59

- (1) On the basis of the final results of the variety testing in the field and in the laboratory, and based on the opinion of the expert working groups, the responsible commission shall evaluate whether the requirements for the variety registration are met.
- (2) A variety shall be registered:
  1. if it is distinct, uniform and stable,
  2. if it is of satisfactory value for cultivation and use,
  3. if the denomination of the variety is in accordance with Article 55 of this Act.
- (3) By way of derogation from the provision of point 2 of paragraph 2 of this Article, examination of the value for cultivation and use shall not be required for:
  1. varieties of vegetables, except for varieties of industrial chicory and oil pumpkin, fruit varieties, varieties of ornamental plants and medicinal and aromatic herbs,
  2. varieties of grass which are not intended for the production of fodder plants,
  3. inbred lines, hybrids and clones which are intended solely to be used as hereditary components,
  4. other agricultural plant species for which the entry in the List of Varieties of the Republic of Croatia is not obligatory.
- (4) In the case of varieties of grasses which are not intended for the production of fodder plants, the Institute may examine the suitability of the variety for the purpose stated by the applicant in the application.
- (5) The competent institute shall accept the results of DUS tests carried out by the authorised



bodies of the Community Member States or by the authorised bodies of third countries which have been granted the equivalence of DUS tests by the competent authority of the Community.

(6) Until the Republic of Croatia becomes a member of the European Union, the competent institute shall accept the results of DUS tests carried out by the authorised bodies of the UPOV member states.

(7) In the case of the registration of a genetically modified variety, the variety must satisfy, in addition to the provisions of this Act, the provisions of the legislation governing the introduction of genetically modified organisms into the environment, that is, the variety must have prior approval for the introduction into the environment and the marketing of genetically modified organisms granted in accordance with a separate regulation.

(8) The Minister shall prescribe the methods for determining the conditions, and the value of a variety, referred to in paragraph 2 of this Article, as well as the conditions and the specific procedure for the registration of a genetically modified variety referred to in paragraph 7 of this Act.

#### Article 60

(1) For the purpose of the in situ conservation of plant genetic resources and the sustainable use of plant genetic resources through growing, and by way of derogation from the requirements laid down in paragraph 2 of Article 59 of this Act, the following varieties may be registered:

- existing domestic and domesticated varieties,
- varieties not interesting for commercial production but developed for growing under particular conditions.

(2) In particular the results of unofficial tests and knowledge gained from practical experience during cultivation, reproduction and use and the detailed descriptions of the varieties and their relevant denominations shall be taken into account during the registration of a variety referred to in the first subparagraph of paragraph 1 of this Article.

(3) Upon registration of a variety referred to in the first subparagraph of paragraph 1 of this Article, it shall be included in the List of Varieties of the Republic of Croatia and indicated as a «conservation plant genetic resource».

(4) The Minister shall prescribe more detailed conditions and a specific procedure for the registration and conservation of the varieties referred to in paragraph 1 of this Article, as well as the definitions of domestic and domesticated varieties of particular plant species, and of varieties not interesting for commercial production.

#### *5. Issuance of a decision on inclusion and removal of a variety from the List of Varieties of the Republic of Croatia*

#### Article 61

(1) On the proposal of the competent commission, and provided the applicant has paid all registration fees, the competent institute shall issue a decision on the registration of the variety and its inclusion in the list of varieties.

(2) Beginning with the date the decision referred to in paragraph 1 of this Article becomes final, the variety shall be listed in the List of Varieties of the Republic of Croatia for a period lasting until the end of the tenth calendar year following the year in which the variety was included in the List of Varieties of the Republic of Croatia.

(3) By way of derogation from the provision of paragraph 2 of this Article, grape vine varieties shall be listed in the List of Varieties of the Republic of Croatia for a period lasting until the end of the twenty-fifth year following the year in which the variety was included in the List of Varieties of the Republic of Croatia.

(4) If the competent commission establishes that the conditions for variety registration are not met, it shall propose to the competent institute to issue a decision on non-registration of the variety.

#### Article 62

(1) A variety for which a decision has been issued pursuant to Articles 63, 64 and 65 of this Act shall be removed from the List of Varieties of the Republic of Croatia on the date of adoption of the decision.

(2) Where a variety which is included in the Community common catalogue of varieties ceases to be accepted, for whatever reasons, in the Member State which initially registered it, such variety may remain on the List of Varieties of the Republic of Croatia, provided that the requirements for registration continue to be met and that there is a maintainer for the variety.

(3) The period of validity of registration of a variety and its inclusion in the List of Varieties of the Republic of Croatia may be extended provisionally until a decision is taken on the application for renewal of inclusion of the variety in the List of Varieties of the Republic of Croatia.

#### Article 63

(1) The Institute shall, on the proposal of the competent commission, issue a decision removing a variety from the List of Varieties of the Republic of Croatia if:

- the 10-year period, for which the variety is included in the List of Varieties of the Republic of Croatia, has expired,
- the applicant has requested removal of the variety.

(2) Seed material of a variety which has been removed from the List of Varieties of the Republic of Croatia pursuant to paragraph 1 of this Article may be marketed until 30 June of the third year following the removal of the variety from the List of Varieties of the Republic of Croatia.

(3) When the conditions referred to in paragraph 1 of this Article are met, the competent institute shall deposit seed samples and the dossier of the variety in the plant gene bank.

#### Article 64

The Institute shall issue a decision removing a variety from the List of Varieties of the Republic of Croatia if:

1. the variety has not been maintained in accordance with this Act,
2. the applicant has failed to pay annual fees for the maintenance of the variety.

#### Article 65

The Institute shall revoke a decision on inclusion of a variety in the List of Varieties of the Republic of Croatia:

1. if, after registration of the variety, it is established that the condition concerning distinctness referred to in point 1 of paragraph 2 of Article 59 of this Act was not fulfilled at the time of registration,
2. if the provisions of this Act and regulations made under this Act concerning variety

registration have not been complied with,

3. if, at the time of the application for registration or during examination, false or fraudulent particulars were supplied concerning the factors on the basis of which registration was granted.

(2) If acceptance of a variety has been revoked, the variety shall be deleted from the List of Varieties of the Republic of Croatia as of the date of registration, and all legal and administrative actions resulting from such inclusion shall also be revoked.

#### Article 66

(1) The variety maintainer may submit an application for renewal of the inclusion of a variety in the List of Varieties of the Republic of Croatia, not later than two years before expiry of the period for which the variety is listed in the List of Varieties of the Republic of Croatia.

(2) Before renewal of the inclusion of a variety in the List of Varieties of the Republic of Croatia, the competent institute, or the Institute for Fruit Growing, shall check whether the maintainer maintains the variety in such a way that the requirements as to distinctness, uniformity and stability, on the basis of which registration was granted, are still satisfied.

(3) When the conditions referred to in paragraph 2 of this Article are met, the Institute shall issue a decision on renewal of the inclusion of the variety in the List of Varieties of the Republic of Croatia.

(4) Beginning with the date on which the decision on renewal of the inclusion of the variety is issued, the variety shall be listed in the List of Varieties of the Republic of Croatia for a period lasting until the end of the tenth calendar year following the year of inclusion of the variety in the List of Varieties of the Republic of Croatia.

(5) By way of derogation from the provision of paragraph 4 of this Article, varieties of fruit species and grape vine varieties shall be listed in the List of Varieties of the Republic of Croatia for a period lasting until the end of the twenty-fifth year following the year of renewal of the inclusion of the variety in the List of Varieties of the Republic of Croatia.

(6) The conditions and procedure for renewal of the inclusion of varieties in the List of Varieties of the Republic of Croatia, and the amount of the fee shall be prescribed by the Minister.

#### *6. List of Varieties of the Republic of Croatia and variety dossiers*

##### Article 67

(1) For varieties which are included in or removed from the List of Varieties of the Republic of Croatia pursuant to Articles 62, 63, 64 and 65 of this Act, the Institute shall prepare, update and publish the List of Varieties of the Republic of Croatia in the form of a catalogue.

(2) The competent institute shall keep a dossier on each variety from paragraph 1 of this Article.

(3) The contents of the List of Varieties of the Republic of Croatia and of variety dossiers shall be prescribed by the Minister.

#### *7. National list of varieties*

##### Article 68

(1) The National List of Varieties (hereinafter: "the National List") is an official list of varieties which may be produced, entered for inspection and placed on the market in the Republic of Croatia as from the date of application of this Act.

(2) The National List of Varieties shall include the existing domestic, domesticated and newly developed domestic varieties of agricultural plants (hereinafter referred to as “domestic varieties”) which are entered in the List of Varieties of the Republic of Croatia established according to the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (Official Gazette 131/97 and 163/03) and varieties which will be included in the List of Varieties of the Republic of Croatia according to this Act until the Republic of Croatia joins the European Union.

(3) The National List for all species of agricultural plants shall be maintained, updated and published by the Institute in the form of a catalogue.

(4) The contents of the National List of Varieties and of variety dossiers, as well as the conditions for keeping a variety on the list of varieties shall be prescribed by the Minister.

*8. Special examination of varieties for inclusion in the List of Recommended Varieties*

Article 69

(1) For certain species of agricultural plants which are important for production in the Republic of Croatia, special examination of a variety shall be conducted to determine its value for cultivation and use in relation to different technologies of production or to different agro-ecological conditions, and to obtain more detailed data on the characteristics of the variety.

(2) The List of Recommended varieties may contain the varieties which are included in the List of Varieties of the Republic of Croatia and in the National List. The right to produce, enter for official inspection, import and/or market a variety results from the status of such variety in the List of Varieties of the Republic of Croatia and in the National List, and from the status of the List of Varieties of the Republic of Croatia and the National List in relation to acceptance of the procedure for variety registration carried out until the time of joining the European Union.

(3) The Institute shall, on the basis of the results of special examinations, prepare the List of Recommended Varieties and publish it in the official gazette of the Institute.

(4) The examination and inclusion in the List of Recommended Varieties of agricultural plants shall be carried out on an application submitted to the Institute for Seed and Seedlings, and the applicant shall bear the costs of the examination.

(5) The examination and inclusion in the List of Recommended Varieties of fruit species shall be carried out on the basis of a Programme for examination of varieties for inclusion in the List of Recommended varieties of fruit species, to be proposed to the Ministry by the Institute for Fruit Growing.

(6) The Programme referred to in paragraph 5 of this Article proposes to the Ministry a certain number of plant species and their varieties which will be covered by the examinations for the inclusion in the List of Recommended Varieties.

(7) The costs of the implementation of the Programme referred to in paragraph 5 of this Article shall be borne by the Ministry.

(8) The Minister shall prescribe the species of agricultural plants and the procedure and method of conducting special examinations, the contents of the List of Recommended varieties and the manner of maintaining it, as well as the level of costs of special examinations which will be borne by the applicant referred to in paragraph 4 of this Article.

*9. Maintenance of varieties of parent trees and keeping of seed samples*

Article 70

- (1) A variety must be maintained by a maintainer throughout the period of its registration.
- (2) A variety may be maintained by a maintainer who is entered in the Register of Suppliers.
- (3) If the variety maintainer is in another Community Member State, the maintainer must be subjected to inspection procedures which are equivalent to the inspection procedures established according to this Act.
- (4) If the equivalence requirement referred to in paragraph 3 of this Article is satisfied, the variety may be maintained by an authorised maintainer who resides in the Republic of Croatia and who, as such, is considered the variety maintainer.
- (5) The maintainer or authorised maintainer of a variety must ensure that the variety is maintained according to the prescribed methods of variety maintenance and must keep records of maintenance of the variety.
- (6) The Minister shall prescribe the methods of maintenance of varieties of seed and planting material, as well as the contents of records referred to in paragraph 5 of this Article and the manner of keeping them.

#### Article 71

- (1) Supervision of maintenance of a variety shall be performed by the competent institute.
- (2) Before a decision on registration of a variety is issued, the variety maintainer must submit to the competent institute a sample of propagating material of the registered variety.
- (3) The competent institute shall keep a sample of the registered variety and shall use it as a standard sample, while in the case of perennial plant species, the parent trees grown by the breeder or maintainer are recorded as samples.
- (4) The Minister shall adopt a regulation governing the exercise of supervision referred to in paragraph 1 of this Article, and the manner of keeping records of samples referred to in paragraph 3 of this Article.

### V CONTROL OF IMPORTATION OF AGRICULTURAL PROPAGATING MATERIAL

#### Article 72

- (1) At the time of importation, documents accompanying agricultural propagating material shall be subjected to a mandatory check by the phytosanitary inspection service at the border crossing or at designated places within the country, which are under customs supervision. The importer declares the importation of agricultural propagating material by submitting a written declaration.
- (2) Seed may be imported if the requirements referred to in paragraphs 1 and 2 of Article 29 of this Act are satisfied and if the seed is accompanied by the documents referred to in paragraph 9 of Article 29 of this Act, while planting material may be imported if the requirements referred to in paragraphs 1 and 2 of Article 47 of this Act are satisfied and if the planting material is accompanied by the documents referred to in paragraph 8 of Article 47 of this Act.
- (3) The phytosanitary inspector shall permit the importation of agricultural propagating material if the requirements of paragraph 2 of this Article are satisfied, or if that is not the case, the phytosanitary inspector shall prohibit the importation and order that agricultural propagating material be returned to the sender.
- (4) Agricultural propagating material which is brought into the Republic of Croatia by individuals or delivered to the customs office by mail shall be declared to the phytosanitary inspector for inspection in accordance with paragraph 1 of this Article.

(5) The customs offices cannot carry out the customs clearance procedure for agricultural propagating material, or send such consignments for clearance to other customs offices in the territory of the Republic of Croatia, until they receive, from the phytosanitary inspector at the border crossing, a certificate of control performed in accordance with paragraph 2 of this Article.

(6) An appeal against the decision of the phytosanitary inspection service referred to in paragraph 3 of this Article may be made to the Ministry.

(7) The appeal shall be made within 8 days of the delivery of the decision.

(8) The appeal shall not postpone the enforcement of the decision.

(9) The Minister shall provide for the inspection of consignments and shall specify the form of the declaration referred to in paragraph 1 of this Article.

#### Article 73

(1) Small quantities of seed in original packages which are imported by citizens of the Republic of Croatia for personal use need not be declared to the phytosanitary inspector and they are not subject to checks provided for by this Act and regulations made under this Act.

(2) The quantities of seed referred to in paragraph 1 of this Article shall be prescribed by the Minister.

#### VI COSTS

##### Article 74

(1) The costs of the variety registration procedure shall be borne by the applicant.

(2) The costs of keeping samples and conducting supervision referred to in Article 71 of this Act and regulations made under this Act shall be borne by the applicant.

(3) The costs referred to in paragraphs 1 and 2 of this Article, the time and manner of payment and the use of funds shall be prescribed by the Minister.

##### Article 75

(1) Legal and natural persons shall pay costs:

1. of conducting official inspection of the production of seed and planting material of agricultural plants, referred to in paragraph 1 of Article 14, paragraph 1 of Article 39, and of issuing certificates referred to in paragraph 1 of Article 20 and paragraph 1 of Article 42 of this Act,

2. of determining the quality of seed and planting material of agricultural plants referred to in Articles 19 and 38 of this Act,

3. of checks of imported consignments of seed of agricultural plants, carried out by the phytosanitary inspection service referred to in Article 72 of this Act.

(2) The costs referred to in point 1 of paragraph 1 of this Article shall constitute revenue of the Institute, the costs referred to in point 2 of paragraph 1 of this Article shall constitute revenue of authorised laboratories and the Institute, and the costs referred to in point 3 of paragraph 1 of this Article shall constitute revenue of the state budget.

(3) The amount of costs referred to in paragraph 1 of this Article shall be prescribed by the Minister.

#### VII ADMINISTRATIVE AND INSPECTION CONTROL

##### Article 76

(1) The administrative control of the implementation of this Act and regulations made under this Act, and the control of the work of the institutes on state administration tasks delegated to them, shall be carried out by the Ministry.

(2) The state administration tasks delegated to the institutes are as follows:

- official inspection of the production of seed crops and planting material,
- issuance of documents and registration of varieties

#### Article 77

(1) The inspection control of the implementation of this Act and regulations made under this Act shall be carried out by the agricultural and phytosanitary inspection services (hereinafter referred to as “the competent inspection service”) of the Ministry.

(2) Inspection control tasks falling within the responsibility of the agricultural inspection service shall be carried out by agricultural inspectors, while those falling within the responsibility of the phytosanitary inspection service shall be carried out by phytosanitary inspectors.

(3) The inspection control on the market during the implementation of this Act and regulations made under this Act shall also be carried out by market inspectors of the State Inspector’s Office in accordance with special regulations governing commerce and consumer protection.

#### Article 78

(1) The duties of an agricultural inspector can be performed by a person who received a Bachelor of Science degree from a department, school or programme of the college of agronomy/agriculture, or a master's degree in the profession, has 5 years professional experience and has passed the state certification examination.

(2) The requirements referred to in paragraph 1 of this Article, to be met by phytosanitary inspectors, are laid down in the Plant Health Act (OG 75/05).

(3) The curriculum of the special part of the state certification examination referred to in paragraphs 1 and 2 of this Article shall be prescribed by the Minister.

#### Article 79

(1) The agricultural and phytosanitary inspectors shall have an identity card and a badge in evidence of their official status, identity and powers.

(2) The form of the identity card and the badge, and the manner and the procedure for issuing the identity card referred to in paragraph 1 of this Article shall be prescribed by the Minister.

#### Article 80

(1) The agricultural inspection service shall have the following duties:

1. To control whether the requirements are met by legal and natural persons registered in the Register of Seed Suppliers and the Register of Planting Material Suppliers.
2. To order temporary or permanent removal from the Register of Seed Suppliers and the Register of Planting Material Suppliers,
3. To check whether agricultural propagating material which is placed on the market is accompanied with the prescribed documents,
4. To perform surveillance of plant species which are not permitted to be grown and propagated in particular areas of the Republic of Croatia,

5. To take samples of agricultural propagating material during inspection in order to send them for analysis,
6. To order that a certificate accompanying the dispatch note and a certificate affixed on the packaging be changed where it establishes that agricultural propagating material placed on the market is not properly labelled or is not of the required quality,
7. To check the keeping of records of agricultural propagating material which are required by this Act and regulations made under this Act,
8. To prohibit the placing on the market of agricultural propagating material where it establishes that it does not satisfy quality requirements or other requirements provided for by this Act and regulations made under this Act,
9. To temporarily prohibit, until a final decision is made, the sale of agricultural propagating material if shops do not meet the prescribed requirements,
10. To temporarily seize agricultural propagating material as well as other items related to their marketing, until a final decision is made,
11. To order the destruction, and supervise the destruction procedure, of seeds placed on the market in contravention of the provisions of this Act and regulations made under this Act, which could not be used, whether as such or in a processed form, for food or feed or industrial processing,
12. To order the destruction, and supervise the destruction procedure, of planting material which has been placed on the market in contravention of the provisions of this Act and regulations made under this Act,
13. To keep official data on incidences of violation of the provisions of this Act and the regulations made under this Act,
14. To notify competent state administration bodies of any observed irregularities and require that certain procedure be implemented, if it is not itself authorized to act directly,
15. To submit a request for the institution of offence proceedings for breaching the provisions of this Act and regulations made under this Act,
16. To undertake other activities and measures provided for by this Act and the regulations made under this Act.

(2) The phytosanitary inspection service shall perform all the tasks specified in paragraph 1 of this Article in the field of planting material, and shall also:

1. Control registration in the Register of Seed Suppliers referred to in paragraph 1 of Article 29, the registration of a variety in the List of Varieties of the Republic of Croatia referred to in paragraph 2 of Article 29, and the documents referred to in paragraph 9 of Article 29 of this Act,
2. Control registration in the Register of Planting Material Suppliers referred to in paragraph 1 of Article 47, the registration of a variety in the List of Varieties of the Republic of Croatia referred to in paragraph 2 of Article 47, and the documents referred to in paragraph 8 of Article 47 of this Act.

#### Article 81

- (1) The legal and natural persons who are subject to inspection by the responsible inspector must enable him to perform inspection, provide him with the required data and information, and ensure conditions for unimpeded work.



(2) The legal and natural persons referred to in paragraph 1 of this Article shall, at the request of the responsible inspector and in a given period of time, provide or prepare such data and material as the inspector may need for performing inspection control.

(3) The period of time referred to in paragraph 2 of this Article shall be appropriate to the type of the request.

#### Article 82

(1) In carrying out inspection control, the responsible inspector shall conduct the inspection procedure, compile the minutes of the inspection, and issue a decision in cases when so authorised under this Act and regulations made under this Act.

(2) Actions by the responsible inspector are subject to the provisions of the Act on General Administrative Procedure, unless otherwise provided for in this Act.

#### Article 83

(1) If, during the performance of inspection control, the responsible inspector establishes that this Act or the regulations made under this Act have been violated, he shall issue a decision ordering that the established irregularities or deficiencies be removed within a specified time period.

(2) The responsible inspector shall issue the decision referred in paragraph 1 of this Act without delay and not later than 15 days following the completion of the inspection.

(3) An appeal against the decision of the responsible inspector may be made, within 15 days of the delivery of the decision, to an appeals commission to be appointed by the Minister.

#### Article 84

(1) If a legal or natural person is found to be engaged in activities contravening the imposed ban which has meanwhile become final and enforceable, the responsible inspector shall render an oral decision and immediately order its execution.

(2) The decision referred to in paragraph 1 of this Article shall be entered in the minutes of inspection.

(3) When executing the decision referred to in paragraph 1 of this Article, the responsible inspector shall seal or otherwise close the premises (the establishment) in which the activities are carried out and, pending a decision of the competent authority, may seize the equipment, machines, tools and vehicles used for such activities.

#### Article 85

(1) In performing inspection control, the responsible inspector can, pending a decision on committed infringement or a sentence for criminal act, temporarily seize documents and objects which may be used as evidence in legal or court proceedings.

(2) For temporarily seized documents or objects referred to in paragraph 1 of this Article a receipt shall be issued.

#### Article 86

(1) If the responsible inspector suspects that seed and planting material are not in compliance with the requirements prescribed by this Act and regulations made under this Act, he shall take a certain number of samples and send them to an accredited laboratory for analysis.

(2) Samples for analysis shall be submitted under a codename.

(3) The method of taking samples, their number and weight or quantity, shall be prescribed by the Minister.

Article 87

- (1) The seed supplier (hereinafter: the sample owner) may within 8 days of the receipt of analysis results ask the responsible inspector to send another specimen of the sample to the Institute for repeated analysis.
- (2) In case of doubt about analysis results, a repeated analysis may also be demanded by the responsible inspector within the period of time set out in paragraph 1 of this Article.
- (3) The finding of the repeated analysis shall be considered final and disputable only under the conditions and in the manner as provided for contesting public documents.

Article 88

- (1) The sample owner shall cover the costs of analysis or repeated analysis if the seed or planting material from which samples were taken is found to deviate from the prescribed requirements.
- (2) If through an analysis the samples are found to meet the requirements of this Act and regulations made under this Act, the costs of the analysis or a repeated analysis shall be covered by the state administration body whose agricultural inspector has forwarded the samples.
- (3) The owner of the product from which a sample was taken shall not be entitled to any compensation for the value of the sample.

Article 89

- (1) The procedure for appeal against an administrative act issued by the Institute shall be conducted by the Ministry.
- (3) No appeal may be lodged against the decisions of the Ministry made on the basis of this Act in the first-instance procedure, but an administrative proceeding can be initiated.
- (3) The appeal lodged against decisions issued by virtue of this Act shall not postpone the enforcement of the decisions.

Article 90

The conclusion on the permission of execution of the decision shall be passed by the responsible inspector without delay and not later than eight days following the date on which the decision became enforceable.

Article 91

- (1) An enforceable decision issued by the responsible inspector, which contains a non-monetary obligation and which, due to the nature of the obligation, can be executed by direct coercion, shall be executed by such coercion without the prior use of coercive measures referred to in Article 286 of the Act on General Administrative Procedure.
- (2) If a decision cannot be executed according to paragraph 1 of this Article, the responsible inspector shall force the subject of execution to fulfil its obligation by a fine.
- (3) A fine that pursuant to paragraph 2 of this Article is imposed for the first time shall be in the amount of HRK 10,000.00 for a controlled legal person and in the amount of HRK 5,000.00 for a controlled natural person. Any subsequent coercive fine shall be imposed in the same amount.

VIII PENAL PROVISIONS

Article 92

(1) A legal or natural person shall be fined from HRK 500,000.00 to HRK 1,000,000.00:

1. for growing a genetically modified variety in contravention of the provision of Article 11, paragraph 1 and Article 33, paragraph 8 of this Act,
2. for marketing the seed or propagating material of a genetically modified variety which is included in the List of Varieties in spite of the prohibition imposed by the Minister (Article 11, paragraph 2),
3. for producing seed of genetically modified varieties for a third-country customer (Article 12, paragraph 1).

(2) For an infringement described in paragraph 1 of this Article a fine from HRK 20,000.00 to 70,000.00 shall also be imposed on the responsible person of the legal entity.

#### Article 93

(1) A legal person shall be fined from HRK 100,000.00 to HRK 500,000.00:

1. for marketing seed of a genetically modified variety, without the seed certificates which are affixed to the packaging or accompany the dispatch note and all the documents, official or otherwise, which are affixed to or accompany the seed, clearly and visibly indicating that the variety has been genetically modified, and prominently bearing the words «genetically modified organism» (Article 24, paragraph 1),
2. for marketing planting material of a genetically modified variety, without planting material certificates which are affixed to the packaging or accompany the dispatch note and all the documents, official or otherwise, which are affixed to or accompany the planting material, clearly and visibly indicating that the planting material variety has been genetically modified, and prominently bearing the words «genetically modified organism» (Article 43, paragraph 3).

(2) For an infringement described in paragraph 1 of this Article a fine from HRK 15,000.00 to HRK 50,000.00 shall also be imposed on the responsible person of the legal entity.

(3) For an infringement described in paragraph 1 of this Article a fine from HRK 15,000.00 to HRK 50,000.00 shall also be imposed on a natural person.

#### Article 94

(1) A legal person shall be fined from HRK 70,000.00 to HRK 100,000.00:

1. for marketing seed to which no category has been assigned during certification (Article 9, paragraph 1),
2. for marketing any seed in contravention of the provision of Article 9, paragraph 4 of this Act,
3. for producing seed, without being entered and registered in the Register of Seed Suppliers (Article 10, paragraph 1),
4. for marketing natural seed in contravention of the provision of Article 18, paragraph 3 of this Act,
5. if seed placed on the market does not satisfy the minimum quality requirements referred to in Article 19, paragraph 6 of this Act (Article 19, paragraph 2),
6. for marketing seed in contravention of the provision of Article 23, paragraphs 1 and 3 of this Act,
7. for marketing seed in contravention of the provision of Article 23, paragraphs 5, 6, 7 and 8 of this Act,

8. for marketing seed which has been treated with chemicals or plant protection products, in contravention of Article 24, paragraph 2 of this Act,
9. if, in the case of re-packing, re-sealing and re-labelling, the seed is not labelled as required by Article 25, paragraph 2 of this Act,
10. for marketing seed which does not have a certificate referred to in Article 20, paragraph 1 of this Act and does not satisfy the conditions stated in the certificate (Article 26, first indent),
11. for marketing seed which does not satisfy the minimum quality requirements referred to in paragraph 6 of Article 19 of this Act (Article 26, second indent),
12. for marketing seed which does not satisfy the requirements referred to in Article 23 of this Act in respect of packaging, sealing and labelling of seed (Article 26, third indent),
13. for marketing seed which does not belong to a variety which is included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties is obligatory (Article 26, fourth indent),
14. if seed has been marketed by a supplier who is not entered in the Register of Seed Suppliers, and whose entry in the Register is required by Article 7 of this Act (Article 26, fifth indent),
15. for marketing seed without being registered for such activity in accordance with Article 27, paragraph 1 of this Act,
16. for wholesale and retail marketing of seed without having suitably qualified staff (Article 27, paragraph 2),
17. for engaging in wholesale and retail marketing of seed in contravention of Article 27, paragraph 3 of this Act,
18. for importing and marketing seed without being entered and registered in the Register of Seed Suppliers (Article 29, paragraph 1),
19. for importing and marketing seed in contravention of the provision of Article 29, paragraph 2 of this Act,
20. for importing and marketing seed originating in third countries, in contravention of the provision of Article 29, paragraph 3 of this Act,
21. for failing to keep records of imported seed quantities referred to in Article 29, paragraph 7 of this Act,
22. for importing not finally certified seed without permission, in contravention of the provision of Article 29, paragraph 8 of this Act,
23. if imported seed is not accompanied with the documents issued by the competent body and if seed is placed on the market contrary to the conditions laid down in Article 29, paragraph 8 of this Act,
24. for marketing planting material contrary to Article 32 of this Act (Article 32, paragraphs 1, 2 and 3),
25. for producing planting material without being entered and registered in the Register of Planting Material Suppliers (Article 33, paragraph 1),
26. for producing planting material for a third-country customer without the authorisation of the Ministry (Article 34, paragraph 2),
27. for marketing planting material produced for a third-country customer (Article 34, paragraph 5),

28. for failing to label planting material referred to in Article 34, paragraph 1 of this Act and for failing to comply with the requirements for isolation referred to in Article 34, paragraph 7 of this Act,
29. for failing to comply with the provisions of Article 35, paragraphs 1 and 2 of this Act during production, packaging, sealing, storage, transport and delivery,
30. for marketing planting material which does not comply with the prescribed quality requirements (Article 37, paragraph 1),
31. for marketing planting material meeting less stringent quality requirements regarding the level of vegetative development, but without prejudice to the requirements concerning the health status of such planting material, without the authorisation of the Minister (Article 37, paragraph 2),
32. if a planting material supplier fails to notify the Institute of the production in accordance with Article 40, paragraph 1 of this Act,
33. if a planting material supplier destroys planting material without the supervision of the responsible inspector (Article 41, paragraph 3),
34. if a planting material supplier fails to submit to the Institute the annual report containing the data specified in Article 42, paragraph 4 of this Act,
35. for marketing planting material which does not satisfy the requirements from Article 43, paragraphs 1 and 2 of this Act as to packaging, sealing and marking,
36. for retail selling of planting material at the place of production when such material is not labelled in accordance with Article 43, paragraph 4 of this Act,
37. if planting material is marketed by a planting material supplier who is not entered in the register of Planting Material Suppliers, in the case of a supplier for whom the registration is obligatory (Article 45),
38. for marketing planting material which does not have a certificate referred to in paragraph 1 of Article 42 of this Act (Article 45, first indent),
39. for marketing planting material which does not satisfy the quality requirements referred to in paragraph 2 of Article 36 of this Act (Article 45, second indent),
40. for marketing planting material which does not satisfy the requirements referred to in Article 43 of this Act as to packaging, sealing and labelling of planting material (Article 45, third indent),
41. for marketing planting material which does not belong to a variety which is included in the List of Varieties of the Republic of Croatia, in the case of plant species for which the List of Varieties is obligatory (Article 45, fourth indent),
42. for marketing planting material without being registered for such activity in accordance with Article 46, paragraph 1 of this Act,
43. for wholesale and retail marketing of planting material without having suitably qualified staff (Article 46, paragraph 2),
44. for engaging in wholesale and retail marketing of planting material in contravention of Article 46, paragraph 3 of this Act,
45. for importing and marketing planting material without being entered and registered in the Register of Planting Material Suppliers (Article 47, paragraph 1),
46. for importing and marketing planting material in contravention of the provision of Article

47. paragraph 2 of this Act,

47. for importing and marketing planting material originating in third countries, in contravention of the provision of Article 47, paragraph 5 of this Act,

48. if the importer of planting material fails to submit to the Institute the data about the imported planting material (Article 47, paragraph 7),

49. for placing on the market planting material for which a decision permitting the importation has not been issued (Article 49, paragraph 2).

(2) For an infringement described in paragraph 1 of this Article a fine from HRK 10,000.00 to HRK 15,000.00 shall also be imposed on the responsible person of the legal entity.

(3) For an infringement described in paragraph 1 of this Article a fine from HRK 10,000.00 to HRK 15,000.00 shall also be imposed on a natural person (independent entrepreneur or an individual).

#### Article 95

(1) A legal person shall be fined from HRK 30,000.00 to HRK 70,000.00:

1. for marketing seed produced for a third-country customer (Article 12, paragraph 4),
2. for failing to inform the competent inspection body about the production of seed referred to in Article 12, paragraph 1 of this Act (Article 12, paragraph 5),
3. if seed referred to in Article 12, paragraph 1 of this Act is not labelled in accordance with Article 12, paragraph 6 of this Act when being placed on the market,
4. for marketing seed in contravention of the provision of Article 28 of this Act,
5. if the supplier referred to in Article 7, paragraph 2 of this Act fails to keep a written record of the buying, selling and delivery of planting material (Article 33, paragraph 5),
6. for producing planting material contrary to the provision of Article 34, paragraph 4 of this Act,
7. for failing to act in accordance with a decision of the competent inspection body referred to in Article 41 paragraph 1 of this Act.

(2) For an infringement described in paragraph 1 of this Article a fine from HRK 6,000.00 to HRK 10,000.00 shall also be imposed on the responsible person of the legal entity.

(3) For an infringement described in paragraph 1 of this Article a fine from HRK 6,000.00 to HRK 10,000.00 shall also be imposed on a natural person (independent entrepreneur or an individual).

#### Article 96

(1) A legal person shall be fined from HRK 10,000.00 to HRK 30,000.00:

1. for producing and marketing planting material, contrary to the provision of Article 44, paragraph 1 of this Act,
2. for failing to enable the agricultural inspector to perform inspection, provide him with the required data and information, and ensure conditions for unimpeded work (Article 90, paragraph 1).

(2) For an infringement described in paragraph 1 of this Article a fine from HRK 2,000.00 to HRK 6,000.00 shall also be imposed on the responsible person of the legal entity.

(3) For an infringement described in paragraph 1 of this Article a fine from HRK 2,000.00 to

HRK 6,000.00 shall also be imposed on a natural person (independent entrepreneur or an individual).

## IX TRANSITIONAL AND FINAL PROVISIONS

### Article 97

As of the date of entry of the Republic of Croatia into the European Union:

- a supplier of agricultural propagating material who has a registered firm established in a Member State of the European Union shall be recognised as being registered in the Register of Seed Suppliers and the Register of Planting Material Suppliers referred to in Article 7 of this Act,
- agricultural propagating material produced in a Community Member State shall be recognised as satisfying the requirements of this Act, if it satisfies the requirements laid down by the legislation of the European Union for that agricultural propagating material,
- importation shall mean the importation of agricultural propagating material from any country which is not a member of the European Union, and such country shall, within the meaning of this Act, be considered to be a third country,
- varieties of agricultural propagating material which are included in the Common Catalogue of Varieties in the Community or a List of Varieties in a Community Member State shall be recognised as being included in the List of Varieties of the Republic of Croatia and allowed to be produced, registered for official inspection, imported and marketed in the territory of the Republic of Croatia,
- it shall be recognised that an application for inclusion of a variety in the List of Varieties of the Republic of Croatia may be lodged by a natural or legal person with permanent residence or seat in one of the Community Member States,
- a legal or natural person who is registered with the competent authority of a Member State of the European Union as a variety maintainer shall be recognised as being registered in the Register of Variety Maintainers referred to in Article 4 of this Act.

### Article 98

The provisions of the second indent of paragraph 2 of Article 2, paragraph 3 of Article 11, paragraphs 5, 6, 7, 8 and 9 of Article 20, the second indent of paragraph 1 of Article 28, paragraphs 5 and 6 of Article 29, paragraphs 5 and 6 of Article 47, paragraph 5 of Article 59, paragraph 2 of Article 62, paragraphs 3 and 4 of Article 70, and paragraphs 2 and 3 of Article 101 of this Act shall be applied after the accession of the Republic of Croatia to the European Union.

### Article 99

After the accession of the Republic of Croatia to the European Union, the provisions of paragraphs 1 and 2 of Article 11, paragraph 3 of Article 28 and paragraph 2 of Article 37 of this Act shall be applied subject to the approval of the competent body of the Community.

### Article 100

After the accession of the Republic of Croatia to the European Union, the provisions of paragraph 4 of Article 29, paragraph 4 of Article 47 and paragraph 6 of Article 59 of this Act shall not apply.

### Article 101

(1) As from the date of accession of the Republic of Croatia to the European Union, the

Ministry shall provide the competent authority of the Community and the competent authorities of other Community Member States reports and information about the measures undertaken under this Act.

(2) For the purpose of improving certain provisions of the acts which regulate the area of seeds, nursery production and registration of new varieties at the Community level, certain experiments may be organised at the Community level.

(3) For the purpose of implementing paragraph 2 of this Article, the Minister may provide for the carrying out of an experiment, the duration of which shall not exceed 7 years, and for that purpose, may provide for exemption from certain obligations laid down in this Act and regulations made under this Act.

#### Article 102

(1) Legal and natural persons who, pursuant to the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03), are entered:

1. in the Register of Producers of Agricultural Seeds, Transplants and Mycelia of Edible and Medicinal Mushrooms (hereinafter referred to as «the Register of Seed Producers») shall be considered as being entered:

– in the Register of Seed Suppliers under this Act and registered for production and marketing of seed of those species and categories for which seed production rights were granted in the Register of Seed Producers.

– in the Register of Planting Material Suppliers and registered for production and marketing of transplants of those plant species for which production rights were granted in the Register of Seed Producers,

2. in the Register of Producers of Agricultural Planting Material shall be considered as being entered in the Register of Planting Material Suppliers under this Act and registered for production and marketing or distribution of planting material of those types for which rights were granted in the Register of Producers of Agricultural Planting Material,

3. in the Register of Importers of Seeds, Planting Material, Transplants and Mycelia of Edible and Medicinal Mushrooms (hereinafter referred to as «the Register of Importers») shall be considered as being entered:

– in the Register of Seed Suppliers under this Act and registered for importation and marketing of seed of those plant species or categories for which they were registered in the Register of Importers,

– in the Register of Planting Material Suppliers under this Act and registered for importation and marketing of planting material of those plant species or categories for which they were registered in the Register of Importers,

4. in the Register of Agricultural Seed Processors shall be considered as being entered in the Register of Seed Suppliers under this Act and registered for processing and marketing of seed,

5. in the Register of Laboratories for Agricultural Seed Quality Control shall be considered as being entered in the Register of Laboratories and registered for seed testing under this Act,

6. in the Register of Seed Samplers shall be considered as being entered in the Register of Samplers under this Act,

7. in the Register of Maintainers of Varieties of Agricultural Seed and Planting Material shall be considered as being entered in the Register of Variety Maintainers under this Act, for those varieties for which they are entered in:



- the Register of Maintainers of Varieties of Agricultural Seed and Planting Material,
- the Register of Seed Suppliers, and as being registered for production and marketing of seed under this Act for seed of those plant species for which they were entered as maintainers in the Register of Maintainers of Varieties of Agricultural Seed and Planting Material,
- in the Register of Planting Material Suppliers and as being registered for production and marketing of planting material under this Act for those plant species for which they were entered in the Register of Maintainers of Varieties of Agricultural Seed and Planting Material.

(2) Legal and natural persons who, pursuant to paragraph 1 of this Article, are registered in the registers referred to in the ninth indent of paragraph 2 of Article 4 and paragraph 1 of Article 7 of this Act shall continue to be registered for a period of one year following the date of application of this Act.

(3) Upon expiry of the period specified in paragraph 2 of this Article, legal and natural persons not complying with the requirements for registration in the registers referred to in the ninth indent of paragraph 2 of Article 4 and paragraph 1 of Article 7 of this Act shall be deleted from these registers.

(4) Persons in charge of surveillance of seed and planting material under the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03) shall have the right to perform that activity for a period of one year following the date of application of this Act.

#### Article 103

Agricultural propagating material which has been produced, processed, packed and labelled in accordance with the valid acts before the date of application of this Act may be marketed until 30 June 2008.

#### Article 104

(1) Varieties of agricultural propagating material entered in the registers referred to in paragraphs 5, 6 and 7 of Article 5 of the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03) shall, for a period of one year following the date of application of this Act, be considered as being entered in the List of Varieties of the Republic of Croatia, and varieties which, up to the date of application of this Act, have been registered under the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03) in accordance with paragraph 2 of Article 59 of this Act, shall be considered as being entered in the List of Varieties of the republic of Croatia.

(2) Should the varieties of agricultural propagating material referred to in paragraph 1 of this Article fail to satisfy, within the given period of time, the conditions for inclusion in the List of Varieties of the Republic of Croatia, concerning the requirements laid down in Articles 59 and 70 of this Act, they shall be deleted from the List of Varieties of the Republic of Croatia.

(3) Agricultural propagating material of a variety which is deleted from the List of Varieties of the Republic of Croatia in accordance with paragraph 2 of this Article may be marketed by 30 June of the year in which the variety is deleted from the List of Varieties of the Republic of Croatia.

(4) Samples of agricultural propagating material of varieties included in the registers referred to in paragraphs 5 and 7 of Article 5 of the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03), which are deleted from the List of Varieties of the Republic of Croatia in accordance with paragraph 2 of this Article, shall continue to be kept under the activities referred to in Article 6 of this Act.

Article 105

Procedures for the registration of a variety and its inclusion in the registers referred to in paragraphs 5, 6 and 7 of Article 5 of the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03), initiated before the date of application of this Act, shall continue in accordance with this Act.

Article 106

(1) The Minister shall, within two years from the entry into force of this Act, issue regulations pursuant to authority granted by this Act.

(2) Pending the entry into force of the regulations referred to in paragraph 1 of this Article, the regulations made under the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03) shall apply.

Article 107

Inspection and misdemeanour proceedings initiated prior to the date of application of this Act shall be completed in accordance with the provisions of the regulations which were in force in accordance with Article 108 of this Act.

Article 108

(1) As from the date of application of this Act, the Act on Seeds, Planting Material and Registration of Varieties of Agricultural Plants (OG 131/97 and 163/03) shall cease to be in force.

(2) As of the date of entry into force of this Act, tasks falling within the competence of the plant breeding inspection service shall be taken over by the agricultural inspection service of the Ministry in accordance with the provisions of the act referred to in paragraph 1 of this Article.

Article 109

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette and shall apply from 1 January 2008.

Class: 320-20/05-01/03  
Zagreb, 17 November 2005

THE CROATIAN PARLIAMENT

President of the Croatian Parliament

**Vladimir Šeks, m.p.**