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

Adopted 08.12.2005  
 RT I 2005, 70, 540

entry into force 01.01.2006, § 65 subsection 1 point 3 part 01.07.2006. a.

## Amended by the following acts

Reception	Publication	Enforcement
01.06.2006	RT I 2006, 28, 211	01.07.2006
11.01.2007	RT I 2007, 6, 32	01.02.2007
15.02.2007	RT I 2007, 24, 127	01.01.2008
13.12.2007	RT I 2007, 70, 428	01.01.2008
21.05.2008	RT I 2008, 23, 150	01.07.2008
18.12.2008	RT I 2009, 3, 15	01.02.2009
10.06.2009	RT I 2009, 34, 224	01.01.2010
16.09.2009	RT I 2009, 48, 321	23.10.2009
22.04.2010	RT I 2010, 22, 108	01.01.2011 shall enter into force on the day specified in the decision of the Council of the European Union on the annulment of the exception established for the Republic of Estonia on the basis of Article 140(2) of the Treaty on the Functioning of the European Union, Council of the European Union 13.07.2010. a decision No. 2010/416/EU (OJ L 196, 28.07.2010, pp. 24–26).
10.06.2010	RT I 2010, 35, 193	08.07.2010, partially 01.10.2012
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; effective date changed 01.07.2014 [RT I, 22.12.2013, 1]
26.10.2011	RT I, 09.11.2011, 3	19.11.2011, partially 01.01.2012
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers replaced on the basis of § 107 <sup>3</sup> subsection 4 of the Government of the Republic Act.
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, on the basis of § 107 <sup>4</sup> subsection 2 of the Government of the Republic Act, the word "Ministry of Agriculture" was replaced by the word "Ministry of Rural Affairs" in the corresponding case.
31.05.2017	RT I, 16.06.2017, 1	01.07.2017
06.12.2017	RT I, 28.12.2017, 2	01.02.2018
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019
20.02.2019	RT I, 19.03.2019, 7	01.04.2019, partially 01.01.2020
10.06.2020	RT I, 01.07.2020, 1	01.01.2021, the law replaced the word "Agricultural Management Board" with the words "Agricultural Management and Food Board" in the corresponding case.
15.06.2020	RT I, 30.06.2020, 7	01.07.2020, partially 10.07.2020; in the law, the word "out of the Union" is replaced by the word "out of the Union" in the corresponding case.
25.11.2020	RT I, 08.12.2020, 1	01.01.2022, partially 01.01.2021
20.06.2023	RT I, 30.06.2023, 1	01.07.2023; On the basis of § 105.19 subsection 6 of the Government of the Republic Act, the word "Environment Ministry" replaced by the word "Climate Ministry" in the corresponding case, and on the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced throughout the text by the words "Regional and Agricultural Ministry" in the corresponding case

## Chapter 1 general settings

### § 1. Scope of the Act

(1) This Act regulates the registration of a plant variety (hereinafter *the variety*), the variety sheet and acceptance of the variety under protection, the submission of information about the use of the variety, the rights of the owner of the protected variety, seed, plant propagation material (hereinafter *the propagation material*) and seed and propagation material of the variety intended for the preservation of cultivation material and genetic resources production for marketing purposes, including packaging, marketing and

delivery to Estonia, state supervision and responsibility for violation of the requirements of this Act and the legislation established on its basis.

[ RT I, 19.03.2019, 7 - enters into force. 01.01.2020]

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

- 1) produced for personal use;
- 2) intended for export;

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

3) [invalidated - RT I 2009, 48, 321 - entered into force. 23.10.2009] 4) seed used as industrial raw material.

(3) The provisions of the Administrative Procedure Act apply to the administrative procedure provided for in the legislation of the European Union, this Act and the legislation issued on its basis, taking into account the peculiarities of the legislation of the European Union and this Act.

(4) When the seed is used as food, the provisions of the Food Act apply.

(5) When the seed is used as feed or its ingredient, the provisions of the Feed Act apply.

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

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

(1) A variety within the meaning of this Act is a plant group of the lowest distinguishable level of a botanical taxon, which is defined by characteristics determined from a genotype or a combination of genotypes, which differs from other plant groups within the same botanical taxon by at least one characteristic, and whose characteristic characteristics are uniform and permanent during its reproduction during subsequent generations. A group of plants meeting the mentioned conditions is considered a variety, regardless of whether the conditions for taking the variety under protection are met or not.

(2) A derived variety is a variety clearly distinguishable from the parent variety in terms of phenological characteristics, which is derived from the parent variety or a variety derived from it and which is similar to the parent variety in terms of the main characteristics determined by the genotype or combination of genotypes, except for differences caused by derivation.

(3) A derived variety may be obtained by breeding from a mutant, an individual of the parent variety, by backcrossing or transformation using genetic technology, as well as by somatic cloning or other such methods.

## **§ 3. Seed**

(1) For the purposes of this Act, seed is the seed of grain, fodder, oilseed, fiber crop and beet crop, as well as seed of vegetable crop, which are used or intended to be used for the production of seed or propagating material for marketing purposes or for the cultivation of plants.

(2) Cereal, fodder, oil, fiber and vegetable crops and beet seeds are divided into categories based on their origin and quality.

(3) Seed categories and their quality requirements by plant species or groups of species specified in subsection 2 of this section shall be established by the minister responsible for the field.

## **§ 4. Reproduction material**

(1) Propagation material for the purposes of this Act is seed potatoes and, in the case of horticultural crops, planting material of fruit, berry, ornamental and vegetable crop species, which is a plant or part of a plant intended for planting or transplanting, and plant material used for propagation of a plant species or the production of planting material, including rootstock and seed, including vegetable crop seed.

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

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

(3) The categories and requirements of propagating material by plant species or groups of species specified in subsection 1 of this section shall be established by the minister responsible for the field.

(4) A clone of a fruit or berry culture within the meaning of this Act is a genetically identical plant obtained as a result of vegetative propagation of a fruit or berry culture plant.

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

## **§ 5. Cultivation material**

(1) Cultivation material within the meaning of this Act is the seeds, plant parts and for planting or transplanting of the tree species and their hybrids used for forestry purposes specified in Annex I of Council Directive 1999/105/EC on the marketing of forest reproductive material (OJ L 011, 15.01.2000, pages 17–40) prescribed planting material.

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

(3) The categories of cultivation material, the requirements for the source material and quality of the cultivation material, and the procedure for keeping records of the source material shall be established by a regulation of the minister responsible for the field.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

## **§ 6. Seed of a genetically modified variety and propagation and cultivation material**

(1) Production, packaging and marketing of genetically modified variety seed and propagation and cultivation material for marketing purposes, as well as state supervision of the said activities, shall be organized in accordance with the requirements of this Act and taking into account the requirements set forth in the Act on the Release of Genetically Modified Organisms into the Environment.

(2) The minister responsible for the field may establish the purity, labeling and other relevant requirements of genetically modified seed and propagation and cultivation material.

(3) The purity, labeling and other relevant requirements of a batch of seeds of a non-genetically modified variety containing genetically modified organisms and propagation and cultivation material may be established by the minister responsible for the field.

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#### **§ 6 . A variety intended for conservation of genetic resources**

(1) For the purposes of this Act, a variety intended for the preservation of genetic resources is a variety specified in subsection 2 (1) of § 2 of this Act, which has adapted to the conditions of Estonia (hereinafter *the region of origin* ) and which is at risk of disappearing over time due to human activity or environmental changes, which leads to a decrease in genetic diversity.

(2) The seed and propagating material of the variety intended for the preservation of genetic resources are divided into groups by plant species or species group based on the method of use.

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

(4) The requirements for the seed and propagating material of the variety intended for the preservation of genetic resources, based on the type of use, by plant species or group of species, shall be established by the minister responsible for the field .

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

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#### **§ 6 . A preservation mixture intended for the preservation of the natural environment**

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

(2) For the purposes of this Act, the storage mixture obtained by direct harvesting is a cleaned or untreated seed mixture, which is marketed as a mixture of seeds collected from the collection site.

(3) For the purposes of this Act, the preservation mixture of cultivated plant crops is a seed mixture that has been produced as follows:

1) seeds of individual species are collected from the collection site;

2) seeds are grown as individual species outside the collection site;

3) the seeds are mixed into a mixture consisting of seeds of genera, species or subspecies characteristic of the habitat type of the collection site.

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

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

(6) More detailed requirements for the preservation mixture shall be established by regulation of the minister responsible for the field .

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

#### **§ 7. Calculation of the procedural deadline, delivery of the decision made on the basis of this Act and actions subject to a state fee**

(1) The calculation of the processing time prescribed for the Agricultural and Food Board and the Environmental Board in this Act starts from the day of receipt of the application and all necessary documents proving the data provided in it (hereinafter referred to as *the application* ) after the payment of the state fee.

(2) The decision of the Agriculture and Food Board and the Environment Board made on the basis of this Act shall be notified to the person within ten working days of the decision being made.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

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

[ RT I, 28.12.2017, 2 - enters into force. 01.02.2018]

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#### **§ 7 . Competent authority and responsible authority**

The competent authority or the responsible authority provided for in the relevant legislation of the European Union is the Agricultural and Food Board and the Environmental Board within the scope of competence provided for in this law.

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

## **Chapter 2 VARIETY**

### **Section 1**

#### **Requirements for the variety**

#### **§ 8. Registration of the variety**

(1) A registered variety may be taken under protection, the variety sheet or the recommended variety sheet of crops. Variety registration is a procedure during which the compliance of the variety with the requirements set forth in this law is determined and the appropriate variety is entered in the variety register.

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

(2) To register a variety, the applicant submits a formal application to the authorized processor of the variety register (hereinafter *the registrar*). The applicant is responsible for the correctness of the data provided in the application.  
[ RT I 2008, 23, 150 - entry into force. 01.07.2008]

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(2 ) [Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

2

(2 ) [Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(3) The form of the application specified in subsection 2 of this section, the data to be submitted on the application, the list of documents to be attached to the application and the procedure for applying for variety registration shall be established by the minister responsible for the field .

(4) Together with the registration of the variety, the owner of the variety may also apply for the protection of the variety or the taking of a variety sheet. In the case of a variety intended for the preservation of genetic resources, the keeper of the variety may also apply for a variety sheet together with the registration of the variety.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

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

(1) The breeder of a variety is a natural person or a group of persons who have bred or identified a variety using different breeding methods.

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

(3) If the breeder has bred the variety while fulfilling a work or service task or a contractual obligation, the breeder's employer or the client of the work shall be deemed to be the owner of the variety.

(4) If the breeder or the owner of the variety does not have his residence or place of residence in the Republic of Estonia or a member state of the European Union, he must have a representative whose residence or place of residence is in the Republic of Estonia or the European Union in a member state of the Union. General principles of civil law apply to representation.

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

The variety must be distinct, uniform and persistent and have an appropriate variety name.

### **§ 11. Distinguishability of variety and known variety**

(1) A variety is distinguishable if it differs in one or more important characteristics from all other varieties known at the time of application.

(2) A variety is known if:

- 1) an application for its registration or protection has been submitted in Estonia or another country;
- 2) an application for obtaining this variety sheet has been submitted in Estonia or another country;
- 3) it is described in the publication;
- 4) it is used in production;
- 5) it is marketed or
- 6) it is described in a catalog issued by an international organization.

1

(2 ) In the case of fruit and berry culture, a variety of fruit and berry culture marketed in Estonia or another member state before September 30, 2012, which had a variety description that met the requirements by that date or was registered by that date, is considered a well-known variety.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) A variety for which an application has been submitted for registration, protection or a variety sheet is known to the registrar from the day the application is submitted, assuming that the variety is registered, protected or a variety sheet is submitted after the application is submitted.

### **§ 12. Uniformity of variety**

A variety is uniform if, taking into account the variations resulting from the specifics of its reproduction, the characteristics determined in the tests for the distinctiveness of the variety are sufficiently uniform and correspond to the description of the variety.

### **§ 13. Persistence of the variety**

A variety is persistent if its essential characteristics remain unchanged after repeated vegetative or generative propagation or after completion of a specified reproductive cycle.

### **§ 14. Varietal name**

(1) In the application specified in § 8 subsection 2 of this Act, a proposal for the variety name in the form of a code or name is submitted to the registrar for approval. A variety name proposal for a variety intended for the conservation of genetic resources may include several historically known variety names of that variety.

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

(2) If the applicant submits an application for registration of the same variety both in Estonia and in another country at the same time, he must use the same variety name in the variety name proposal.

(3) After registration of the variety, only the variety name approved by the registrar is used as the variety name.

## § 15. Requirements regarding the variety name

The variety name must meet the requirements established by Commission Regulation (EC) No. 637/2009 establishing implementing rules regarding the suitability of the names of agricultural plant varieties and vegetable varieties (OJ L 191, 23.07.2009, pp. 10–14).  
[ RT I 2010, 35, 193 - entry into force. 08.07.2010]

## § 16. Registration attempts

(1) Registration tests determine the variety:

- 1) belonging to the botanical taxon indicated in the application;
- 2) distinctiveness;
- 3) uniformity and
- 4) persistence.

(2) In the case of a variety registered in another country, the registrar has the right to order, at the expense of the applicant, a report of the variety registration attempts from the relevant competent authority of that country. If, as a result of the evaluation of the report, the registrar finds that the results of the variety registration tests meet the requirements of distinctiveness, uniformity and permanence, he has the right to refuse to organize the registration tests.

(3) If the variety has been registered in another country, but the variety's registration tests have been carried out under conditions significantly different from the climatic conditions of Estonia, the registration tests may be carried out to the extent determined by the registrar.

(4) In the case of a variety intended for the preservation of genetic resources, registration tests shall not be conducted if the appropriateness of the variety can be established on the basis of the provided variety description and other data.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

## § 17. Organizing and conducting registration tests

(1) The registrar organizes the registration tests.

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(1 ) The applicant may perform the registration tests for the variety intended for the preservation of genetic resources and the variety of vegetable culture, the seed of which is intended to be marketed only as standard seed, in accordance with the procedure provided for in subsections 2-4 of this section.

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

2

(1 ) [Repealed - RT I, 09.11.2011, 3 - entered into force. 19.11.2011]

(2) Registration attempts are made under the supervision of the registrar. The registrar forwards the documents necessary for the registration tests to the person conducting the registration tests.

(3) When carrying out registration tests to determine the distinctiveness, uniformity and stability of the variety, the methodology of the Community *Plant Variety Office* (hereinafter *CPVO* ) is followed, in the absence of this, the methodology of the International Union *for the Protection of New Varieties of Plants* (hereinafter *UPOV* ) methodology.

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(3 ) In order to determine the distinctiveness, uniformity and stability of the variety intended for the preservation of genetic resources, the registrar may prepare a suitable methodology for performing registration tests, based on the methodologies specified in subsection 3 of this section.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

(4) If there is no methodology specified in subsection 3 of this section for a plant species, the registrar will prepare a suitable methodology in accordance with the internationally recognized principles of UPOV, coordinating it with the person conducting the registration tests.

(5) The registrar shall determine the quality and quantity of the seed or propagating material of the variety indicated in the application and of any requested reference varieties necessary for registration trials.

(6) The registrar determines the time and place of delivery of the material necessary for the registration tests to the applicant.

(7) Registration attempts are made at the place and time specified by the registrar.

(8) Direct costs related to registration tests shall be paid by the variety registration applicant on the basis of the invoice of the registration test operator.

(9) The procedure for conducting registration tests, including the recognition of mother and father plants of fruit and berry culture, may be established by the minister responsible for the field .

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

(10) The results of the registration tests are reflected in the report.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

## § 18. Evaluation of the appropriateness of the distinctiveness, uniformity and stability of the variety

(1) Based on the results of the registration tests, the registrar makes a decision on the conformity or non-conformity of the distinctness, uniformity and stability of the variety within 30 working days after receiving the report of the registration tests.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

(2) If the registrar decides on the suitability or non-compliance of the variety intended for the preservation of genetic resources on the basis of the variety description and other data, he makes the decision within 30 working days after receiving the variety description and

relevant data.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

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

### **§ 19. Verification of the correctness of the variety name**

(1) The registrar publishes the variety name proposal submitted in the application on its website and in the official publication of the Agriculture and Food Board.

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

(2) The registrar checks the compliance of the variety name with the requirements set forth in § 15 of this Act within 20 working days from the receipt of the variety name proposal.

(3) If the registrar determines that the submitted variety name proposal does not comply with the requirements set forth in this Act, the applicant shall be informed thereof. The applicant has the right to propose a new variety name within 30 days of receiving the relevant notification. The correctness of the new variety name is checked according to the procedure provided in this section.

(4) If the applicant does not submit a new variety name proposal within the time limit provided for in subsection 3 of this section, the registrar makes a decision to terminate the registration of the variety.

### **§ 20. Objection to the variety name proposal**

(1) An interested party may submit a written objection to a published variety name proposal within three months from the publication of the variety name proposal. The objection must be justified and submitted to the registrar.

(2) The registrar notifies the applicant of the submitted objection by mail within ten working days of receiving it.

(3) The applicant shall respond to the objection in writing within 30 days of receiving it.

(4) The registrar makes a decision on not taking the objection into account or accepting the objection within 20 working days after receiving the written response specified in subsection 3 of this section.

[ RT I, 28.12.2017, 2 - enters into force. 01.02.2018]

(5) If, in the opinion of the registrar, the objection submitted to the variety name proposal is justified or if the applicant has not responded to the objection within the time limit set for that purpose, the registrar shall grant the applicant a deadline for submitting a new variety name proposal in accordance with the procedure provided for in § 19 subsection 3 of this Act.

### **§ 21. Approval of the variety name**

(1) If the variety name complies with the requirements set forth in this Act, the registrar makes a decision to approve the variety name.

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

(2) The registrar may approve several historically known variety names as the variety name of a variety intended for the preservation of genetic resources and a variety known for fruit and berry culture.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

### **§ 22. Variety registration and variety certificate**

(1) If the variety meets the requirements for variety name, distinctiveness, uniformity and stability, the registrar makes a decision to register the variety and issues a variety certificate.

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(1 ) [Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

2

(1 ) [Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(2) The registrar makes an entry in the variety register on the day of making the decision to register the variety.

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

(3) The requirements for the content of the variety certificate are established by the minister responsible for the field .

### **§ 23. Change of variety name**

(1) Change of a variety name approved by the registrar or entered in the variety register is initiated:

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

1) by the registrar's decision, if after confirming the variety name, making the decision to register the variety or entering the variety in the variety register, circumstances appear due to which the variety name does not comply with the requirements set forth in this Act;

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

2) at the request of the owner of the variety, if there is a valid reason for changing the name of the variety;

3) at the request of an interested person, if a violation of his rights has been established by a judgment that has entered into force.

(2) In the case specified in subsection 1 of this section, the variety owner submits a new variety name proposal to the registrar. The correctness of the new variety name is checked according to the terms and procedure set forth in this section. The new variety name enters into force on the day of its entry into the register.

## **Section 2**

### **Variety sheet and the procedure for taking the variety sheet**

### **§ 24. Variety sheet**

(1) The variety sheet is a list of varieties recognized as appropriate for grain, fodder, oil and fiber crops and beetroot and potato (from now on together with *arable crops*), *vegetable, fruit and berry crops*.

(2) The variety sheet is also included in the single crop variety sheet of the European Union (hereinafter *the EU crop variety sheet* ), the European Union uniform vegetable crop variety sheet (hereinafter *the EU vegetable crop variety sheet* ) or the European Union fruit and berry crop variety sheet (hereinafter *the EU fruit and berry crop variety sheet* ). .

(3) The variety sheet may also be taken from the type of crop, vegetable, fruit or berry crop variety, the varieties of which are not taken from the EU crop, vegetable crop or fruit and berry crop variety sheet.

(4) The registrar prepares a variety sheet from the varieties of the species specified in this section that have been recognized as appropriate, for which the variety owner or the keeper of the variety has requested to take a variety sheet.

(5) The seed and propagating material of the variety taken in the variety sheet may:

- 1) be produced, including its certification may be requested;
- 2) market;
- 3) import.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(6) Regulation (EU) 2018/848 of the European Parliament and of the Council on organic production and labeling of organic products and repealing Council Regulation (EC) No. 834/2007 (OJ L 150, 14.06.2018, pp. 1–92) , organic heterogeneous propagating material and seed recognized as appropriate and entered in the variety sheet may:

- 1) be produced;
- 2) market;
- 3) import.

[ RT I, 08.12.2020, 1 - enters into force. 01.01.2022]

(7) Data on the propagating material and seed specified in subsection 6 of this section shall be published in the variety sheet.

[ RT I, 08.12.2020, 1 - enters into force. 01.01.2022]

## **§ 25. Taking the varietal list of the variety**

(1) Obtaining a variety certificate of a variety is a procedure during which the compliance of the variety with the requirements set forth in § 10 of this Act and the economic cultivation value of the variety are determined.

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(1 ) Taking the variety certificate of a variety intended for the preservation of genetic resources is a procedure during which the compliance of the variety with the requirements set forth in § 10 of this Act is determined.

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

(2) The appropriate variety is taken from the variety sheet based on the request submitted by the owner of the variety or the keeper of the variety. The registrar publishes information about received applications on the website and in the official publication of the Agriculture and Food Board.

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

(3) The preserver of the variety within the meaning of this Act is the owner of the variety or the person who, in case of registration of the variety, ensures that the variety meets the requirements of distinctiveness, uniformity and permanence (hereinafter *variety preservation* ).

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(4) The variety sheet and the list of keepers of varieties taken from the variety sheet are published on the registrar's website and in the official publication of the Agriculture and Food Board. The genetically modified variety and the variety intended for the conservation of genetic resources are marked appropriately in the variety sheet.

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

(5) The registrar informs the European Commission about the varieties included in the variety sheet, as well as changes in other data of the variety sheet. The variety sheet is changed according to the requests received by the registrar and the decisions made based on the results of the tests.

## **§ 26. Requirements for the variety taken on the variety sheet**

(1) A variety is included in the variety list if:

1) the variety meets the requirements for distinctiveness, uniformity and stability and the variety name provided in § 15 of this Act;

2) the variety has sufficient economic cultivation value, which is explained during national economic experiments (hereinafter *economic experiments* );

3) the variety is safe for plant health, human health and the environment;

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

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

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

5) the applicant has been granted the permit specified in Article 4(2) or Article 16(2) of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council regarding the genetically modified organism contained in the variety.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

(2) A variety of vegetable, fruit and berry crops and a variety of grass for growing grass is taken from the variety sheet if it meets the requirements set forth in clauses 1 and 3-5 of subsection 1 of this section.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) If the ingredient used to obtain a hybrid variety meets the requirements set forth in Clause 1, Clause 1 of this section, it shall be taken with the variety name of the ingredient in the variety sheet.

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

(4) The types of hybrid varieties and inbred lines specified in subsection 3 of this section shall be established by the minister responsible for the field by group of agricultural and vegetable crop species .  
[ RT I 2006, 28, 211 - entry into force. 01.07.2006]

(5) A variety intended for the preservation of genetic resources is included in the variety list if it meets the requirements set forth in points 1 and 3 of subsection 1 of this section and if this variety has been historically grown in Estonia and has adapted here.  
[ RT I 2009, 48, 321 - entry into force. 23.10.2009]

(6) The registrar determines whether the variety corresponds to the variety of the agricultural or vegetable crop intended for the preservation of genetic resources.  
[ RT I 2006, 28, 211 - entry into force. 01.07.2006]

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

## **§ 27. Organizing and conducting economic experiments**

(1) The registrar organizes economic tests to determine the cultivation value of the variety.

(2) Economic experiments are performed under the supervision of the registrar. The registrar forwards to the economic experimenter the necessary documents for conducting economic experiments.

(3) When conducting economic experiments to determine the economic cultivation value of a variety, the methodology of economic experiments developed by the registrar and coordinated with the economic experimenter is followed and the obtained cultivation value is compared with the cultivation value of standard varieties.

(4) The registrar informs the applicant of the time and place of delivery of the material necessary for economic experiments.

(5) Economic tests are performed at the place and time specified by the registrar.

(6) Direct costs related to conducting economic experiments shall be paid by the applicant on the basis of the invoice submitted to him.

(7) The procedure for conducting economic experiments may be established by the minister responsible for the field .

## **§ 28. Procedure for taking the variety sheet and keeping it in the variety sheet**

(1) The results of economic experiments are recorded in a report that is submitted to the registrar.

(2) Based on the results of the economic tests and taking into account the economic cultivation value of the variety, the registrar makes a decision to accept the variety sheet of the variety or to refuse to take the variety sheet by December 31 of the year of receipt of the economic test report of the last test year.

(3) The registrar makes a decision to take a variety sheet or to refuse to take a variety sheet of a variety intended for the preservation of genetic resources, based on the application submitted before February 1 and the documents attached to it, within two calendar months, taking into account the opinion of the authority dealing with the organization of the preservation of genetic resources of agricultural and vegetable crops. The institution dealing with the conservation of genetic resources of agricultural and vegetable crops is the Ministry of Regional Affairs and Agriculture.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced by the words "Ministry of Regional and Agricultural Affairs" in the corresponding case]

(4) The registrar refuses to take the variety sheet of a variety intended for the preservation of genetic resources, if:

1) this variety has already been taken into the variety sheet or the variety sheet of EU agricultural or vegetable crops as a variety other than a variety intended for the preservation of genetic resources;

2) this variety has been excluded from the variety list or the variety list of EU agricultural or vegetable crops within the last two years;

3) less than two years have passed since the deadline allowed for the certification and marketing of the seed of a variety excluded from the variety sheet or the variety sheet of EU agricultural or vegetable crops;

4) this variety has been included in the Community variety protection provided for in Council Regulation (EC) No. 2100/94 on Community variety protection (OJ L 227, 01.09.1994, p. 1–30);

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

5) this variety has been taken under national variety protection;

6) the processing of the application for the protection of this variety has not been completed.

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

1) ten calendar years of the field and vegetable crop variety from the date of making the decision to enter the variety list;

2) thirty calendar years of the variety of fruit and berry culture from the date of making the decision to take the variety sheet;

3) making a decision to take a variety sheet until the end of the validity period of the marketing permit specified in the Act on the Release of Genetically Modified Organisms for the genetically modified organism contained in the variety of the genetically modified variety or the permit specified in Article 4(2) or Article 16(2) of Regulation (EC) No. 1829/2003 of the European Parliament and Council from the date.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(6) The procedure for taking the variety list of the variety and the list of plant species taken for the variety list shall be established by the minister responsible for the field .

(7) The procedure for taking the variety list of the variety intended for the preservation of genetic resources, including the data to be submitted on the application, the form of the application and the list of documents to be attached to the application, shall be established by the minister responsible for the field .

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

## **§ 29. Requirements for preserving the variety of fruit and berry culture and field and vegetable culture**

[ RT I 2010, 35, 193 - entered into force. 08.07.2010]



(1) The variety included in the variety list must be preserved for at least the time it is kept in the variety list. A variety intended for conservation of genetic resources shall be preserved in the area of origin of that variety.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(2) In order to monitor the preservation of the variety, the custodian of the variety collects and keeps data on the production of seed and propagation material of the generations preceding the elite seed of the variety taken in the variety sheet, as well as other information and documents regarding the preservation of the variety.

(3) The custodian of the variety shall submit the information and documents regarding the preservation of the variety and the sample, sample or component of the variety of the seed or propagating material of the variety necessary for taking or renewing the standard sample by the date and place specified by the registrar. The standard sample is stored according to the instructions of the Organization for Economic Co-operation and Development ( hereinafter referred to as *OECD* ).

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

(4) The characteristics to be minimally included in the inspection of the type of fruit and berry crop and field and vegetable crop and the requirements for checking the preservation of the variety during supervision shall be established by the minister responsible for the field , taking into account the requirements of the CPVO and UPOV registration test guidelines in addition to the requirements of the legislation of the European Union.

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

### **§ 30. Extension of the term of keeping the variety in the variety sheet**

(1) On the basis of the applicant's application, the registrar may extend the term of keeping an agricultural or vegetable variety in the variety list up to ten years, and the term of keeping a fruit and berry variety in the variety list up to thirty years from the day following the end of the term of keeping it in the variety list, if it has been determined that the variety has been preserved.

(2) The term of keeping a genetically modified variety in the variety list may be extended based on the applicant's application until the marketing permit specified in the Act on the Release of Genetically Modified Organisms granted for the genetically modified organism contained in the variety or in Article 4(2) or Article 16 of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council until the end of the validity period of the permit specified in paragraph 2.

(3) In order to extend the term of keeping the variety in the variety list, the applicant submits the application specified in subsection 1 of this section to the registrar two years before the relevant deadline provided for in subsection 28 of this Act.

(4) The registrar may also extend the term of keeping such a fruit and berry crop variety in the variety list for which the application specified in subsection 1 of this section has not been submitted to extend the term.

(5) In the case specified in subsection 4 of this section, the term of keeping a well-known variety of fruit and berry culture and such a variety of fruit and berry culture in the variety list may be extended, the keeping of which in the variety list is important for the preservation of the natural environment or genetic resources or in the public interest.

(6) If the registrar has determined the existence of the interest specified in subsection 5 of this section, he shall determine whether the variety has been preserved.

(7) The registrar makes a decision to extend the term of keeping the variety in the variety list or to refuse it within ten working days after learning about the results of the variety preservation check.

(8) The registrar makes the decision to extend the term of keeping a variety in the variety sheet as an entry in the variety register. Only the decision to refuse to extend the term of keeping the variety in the variety list is formalized in writing to the applicant.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

### **§ 31. Exclusion of a variety from the variety sheet**

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

- 1) the variety does not comply with the requirements of this Act;
- 2) knowingly false information has been submitted to apply for a variety certificate or to perform economic experiments;
- 3) the state fee for the year of keeping the variety in the variety list is unpaid;
- 4) the deadline for keeping the variety in the variety sheet has expired;
- 5) the variety applicant has submitted an application to this effect.

(2) In the event of the occurrence of the circumstances specified in clauses 1-3 or 5 of subsection 1 of this section, the registrar shall make a decision to exclude the variety from the variety list either within ten working days of becoming aware of the circumstances specified in clauses 1-3 or receiving the application specified in clause 5.

### **§ 32. Conducting a production test with a variety for which an application has been submitted for a variety sheet**

(1) A person who has submitted an application for inclusion in the variety list of an agricultural crop variety in Estonia or an application for inclusion in the variety list of a vegetable crop variety in Estonia or another European Union member state may conduct a production trial with this variety in order to determine the cultivation value of the variety under production conditions and market the seed for the production trial.

(2) The amount of seed required for the production test specified in subsection 1 of this section may be marketed with the permission of the registrar, which is granted in accordance with Commission Decision 842/2004/EC on implementing regulations, on the basis of which member states may allow the marketing of seeds of the varieties for which an application has been submitted to the National Agricultural Plant Varieties or for inclusion in the catalog of vegetable varieties (OJ L 362, 9.12.2004, pp. 21–27).

(3) To obtain a permit, the person specified in subsection 1 of this section submits an application to the registrar. The registrar makes a decision to allow or refuse the production test within 30 working days of receiving the request.

(4) Limits on the quantities of seed and seed potatoes allowed for production testing shall be established by the minister responsible for the field .

### § 33. Recommended variety sheet of crops

(1) The registrar may prepare a recommended crop variety list from the crop varieties included in the variety list. The recommended variety sheet is a list of those crop varieties, which, as a result of additional tests, have been determined to have better economic properties for cultivation, depending on the plant species, either in Estonian soil and climate conditions or under artificial conditions.

(2) The owner, representative or custodian of the variety submits an application to the registrar for the recommended variety sheet of agricultural crops for taking the variety.

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

(3) The registrar organizes additional tests based on the submitted application. Direct costs related to additional tests are paid by the applicant on the basis of the invoice presented to him.

(4) The minister responsible for the field may establish the requirements for preparing the recommended variety list of crops .

(5) The recommended variety list of agricultural crops is published on the registrar's website and in the official publication of the Agriculture and Food Board.

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

### § 34. List of varieties of decorative crops

(1) The supplier of ornamental crops prepares a list of the varieties of ornamental crops that he produces or markets.

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

- 1) known;
- 2) entered in the variety register;
- 3) under protection.

(3) The requirements for compiling a list of varieties of decorative crops shall be established by the minister responsible for the field .

[ RT I 2010, 35, 193 - entry into force. 01.10.2012]

## Section 3 Variety protection

### § 35. Nature of variety protection

(1) Varieties from all plant genera and species, including hybrids between them, are included under plant variety protection. A variety that has been placed under the European Union plant variety protection on the basis of Council Regulation (EC) No. 2100/94 is not covered by variety protection.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

1

(1 ) The implementation of plant variety protection provided in this section is based on the general principles given in the interpretation of Council Regulation (EC) No. 2100/94 on plant variety protection of the European Union.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(2) Variety protection gives the owner of the variety the exclusive right or, on the basis of the license issued by him, another person the right to: 1) produce seeds and propagation and cultivation material of the protected variety ;

- 2) market;
- 3) import;
- 4) export;
- 5) keep in one's possession for the purpose specified in points 1-4 of this paragraph.

1

(2 ) If the owner of the protected variety has not had the opportunity to exercise his rights with respect to the seed and propagating material of the protected variety, the provisions of clauses 1-5 of subsection 2 of this section shall apply to the harvested plant material produced using the seed or propagating material of the protected variety.

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

2

1

(2 ) If the rights of the owner of the variety specified in subsections 2 and 2 of this section are used by another person in a way other than on the basis of a license agreement, the owner of the variety has the right to demand payment for it either himself or through a third party.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) A protected variety may be used without the owner's permission only:

- 1) in scientific research and in national trials for the purpose of comparing the variety;
- 2) as starting material for breeding a new variety;
- 3) for your own use for non-commercial purposes.

### § 36. Scope of variety protection

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

- 1) which has been bred by derivation from a protected variety, if the protected source variety is not a derived variety;
- 2) which, according to § 11 (1) of this Act, is not clearly distinguishable from the protected variety;
- 3) the protected variety is repeatedly used in the production of seed and propagating or cultivating material.

(2) On a small scale, an entrepreneur may grow a protected variety of a certain plant species, with the exception of hybrid varieties and synthetic varieties, and seed and propagating material to obtain an agricultural product and produce it for use in his company for this purpose without concluding a license agreement and paying a license fee.

(3) Cultivation on a small scale within the meaning of this Act is the cultivation of seed and propagating material of a protected variety, if up to 92 tons of arable land used for growing crops is for grain production or up to 185 tons for potato production. Cultivated land used for small-scale cultivation does not include grassland that is in use or that has been established for a planned use for more than five years.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

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

(5) An entrepreneur who uses plant material produced from the seed or propagating material of a protected variety of a plant species specified in the list established on the basis of subsection 4 of this section for propagation purposes in his company on a larger land area than is stipulated in subsection 3 must pay the owner of the variety a fair fee no later than the use of the said plant material by June 30 of the year following the year. The fair fee must be clearly lower than the license fee paid by the producer of the seed of the variety of the same plant species or the supplier engaged in the production of propagating material.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(6) The amount of the fair fee is agreed upon between the owner of the variety and the company specified in subsection 5 of this section or the non-profit association uniting such companies. If the amount of the fee has not been agreed upon or if the agreement is not fulfilled, the owner of the variety has the right to demand from such an entrepreneur a fee that is not greater than half of the amount of the license fee paid by the seed producer of the same plant species or the supplier engaged in the production of propagating material.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(7) An entrepreneur engaged in the cultivation of a protected variety on a small scale and the entrepreneur specified in subsection 5 of this section keep records of their activities and report the quantities of seed or propagation material produced from the protected variety to the owner of the variety or a third party representing him within ten days from the day of receiving the relevant request.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

## 1

### **§ 36 . Order for the payment of a fair fee**

(1) The owner of the variety himself or through a third party has the right to receive information about the cultivation of seed or propagating material of the protected variety, which is necessary for the collection and payment of a fair fee.

(2) The entrepreneur's obligation to pay a fair fee arises on the day when the entrepreneur actually uses the plant material produced from the seed or propagating material of the protected variety for the purpose of propagation in his company on a larger land area than the area specified in subsection 36 (3) of this Act.

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

(4) The due date for the payment of the fair fee is determined with the calculation that it is not earlier than the date on which the farmer's obligation to pay the fair fee arises.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

### **§ 37. Conditions for accepting a variety under protection**

A variety is taken under protection if the variety conforming to the requirements of § 10 of this Act is novel and has not been taken under the European Union variety protection.

### **§ 38. Novelty of a variety**

(1) A novel is a variety whose owner or another person with his consent has not marketed or otherwise used the seed, propagating material, cultivation material, ingredients or plant material of the variety by the date of submission of the application to the registrar for longer than:

- 1) for one year in the territory of the Republic of Estonia;
- 2) for four years in the territory of another country;
- 3) in the case of tree crops and vines, for six years in the territory of another country.

(2) A variety is also considered novel if:

- 1) the variety has been marketed or used in another way without the owner's knowledge and the owner's rights have been violated;
- 2) the variety has been marketed for the purpose of transferring ownership of the variety;
- 3) the owner of the variety has entered into an agreement for the production of seed, propagation or cultivation material of the variety, but the variety has not been marketed or used for the production of a hybrid variety;
- 4) the variety has been used in scientific work, including experiments, based on the contract;
- 5) the variety has been exhibited at a professional exhibition and described in the exhibition catalogue;
- 6) the plant material produced and harvested during the use of the variety in the manner specified in points 3 and 4 of this subsection has been marketed as a by-product in a form that does not allow identifying the varietal authenticity of the variety.

### **§ 39. Processing of an application for the protection of a variety**

(1) Acceptance of a variety under protection is a procedure during which the registrar determines the compliance of the variety with the requirements of distinctiveness, uniformity, permanence, variety name and novelty, the fact that the variety is not included under the protection of the European Union variety, and makes an entry regarding the acceptance of the variety under protection to the variety register.

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

(2) The owner of the variety submits the application for the protection of the variety. If the variety has several owners, they submit a joint application, showing the share of each of them.

(3) The registrar publishes the applications for the protection of the variety on its website and in the official publication of the Agriculture and Food Board.

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

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

- (1) The owner of the variety may transfer the right to apply for the protection of the variety to another person with a written agreement.
- (2) A copy of the agreement is forwarded to the registrar with information on the owner of the variety and the person to whom the right to apply was transferred.

#### **§ 41. Temporary protection of the variety**

- (1) The variety is under temporary protection from the day of acceptance of the application for the protection of the variety until the decision to accept or refuse the protection of the variety is made.
  - (2) During the period of being under temporary protection, the requirements set forth in this Act for the protected variety shall apply to the variety.
  - (3) While under temporary protection, the owner of the variety has the rights of the owner of the protected variety provided in this Act.
- [ RT I 2007, 6, 32 - entry into force. 01.02.2007]

#### **§ 42. Priority**

- (1) Priority is the preferential right of the person who first submitted the application for the protection of the variety or his legal successor to apply for protection of the variety.
- (2) The registrar determines the priority of taking the variety under protection by the date of acceptance of the application. If on the same date the registrar receives several applications for the protection of the same variety, he determines the priority based on the order in which the applications are received.
- (3) If the same person's application for protection of the same variety has been submitted in another country and no more than one year has passed since then, the registrar, at the request of the applicant, shall determine the priority from the date of acceptance of the application for protection of the variety by the registrar of the other country. For this purpose, the person submits to the registrar a copy of the application for protection of the variety received in another country and a translation of the application for protection of the variety into Estonian. The authenticity of the copy must be certified by the registrar of another country. A copy of the application submitted to the registrar of another country for variety protection and a translation into Estonian may be submitted within three months from the date of submission of the application to the registrar.

#### **§ 43. Submission of an objection**

- (1) An interested person may submit a reasoned objection to the registrar within six months from the publication of the application for protection of the variety.
  - (2) An objection may be submitted regarding the novelty, distinctiveness, uniformity, permanence of the variety or the right to apply for the protection of the variety.
  - (3) The objector has the right to receive documents from the registrar to prove the fact stated in his objection.
  - (4) The registrar shall notify the applicant of the submitted objections within ten working days of receiving them.
- [ RT I, 28.12.2017, 2 - enters into force. 01.02.2018]

#### **§ 44. Answer to objection**

- (1) The applicant submits his position regarding the objection in writing within three months from the receipt of the objection, stating whether he wishes to leave the application unchanged, amend the application or withdraw it. If necessary, the registrar may extend the deadline.
  - (2) The registrar shall forward the answer to the person who submitted the objection within ten working days from the date of receipt.
- [ RT I, 28.12.2017, 2 - enters into force. 01.02.2018]
- (3) The objector shall notify in writing within 30 days of receiving the answer, whether he will maintain the objection or withdraw it. If the objector has not notified by the deadline whether he wants to keep the objection in force or withdraw it, the objection is considered withdrawn.
  - (4) If the applicant has not responded to the objection by the deadline, the application for protection of the variety submitted by him is considered withdrawn.

#### **§ 45. Making a decision on objection**

The registrar makes a decision on whether to satisfy the objection, organize new registration attempts or not to satisfy the objection within 30 working days from the deadline specified in § 44 subsection 3 of this Act.

#### **§ 46. Taking variety under protection or refusing it**

- (1) If the variety meets the conditions set forth in this Act, the registrar makes a decision to take the variety under protection and, on the same day, makes a corresponding entry in the variety register.
- [ RT I 2008, 23, 150 - entry into force. 01.07.2008]
- (2) If the variety does not meet the conditions set forth in this Act, the registrar makes a decision to refuse to take the variety under protection, and the temporary protection of the variety ends from the day of its decision.
  - (3) A variety entered in the variety register, with the exception of vine and tree culture varieties, is under variety protection for 25 years from the day of the decision to accept the variety under protection. A variety of vine and tree culture entered in the variety register is under variety protection for 30 years from the day of making the decision to accept the variety under protection.
- [ RT I 2008, 23, 150 - entry into force. 01.07.2008]

(4) The validity of the plant variety protection ceases during the period of the variety being under the plant variety protection of the European Union.

(5) The protected variety must be preserved during the validity period of the variety protection. The preservation of the variety under variety protection is ensured by the owner of the variety. The owner of the variety has the same obligations in the preservation of the variety as the preserver of the variety of field and vegetable crops taken on the variety sheet.

#### **§ 47. Certificate of protected variety**

(1) The registrar issues a protected variety certificate to the owner of the protected variety within ten working days from the date of the decision to place the variety under protection and the corresponding entry in the variety register. The protected variety certificate is valid for the duration of the variety's protection.

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

(2) The protected variety certificate replaces the variety certificate in the case of a variety that is taken under variety protection immediately after registration.

(3) The requirements for the content of the protected variety certificate are established by the minister responsible for the field .

#### **§ 48. Extension of the validity period of variety protection**

(1) The registrar may extend the validity period of the variety protection by a maximum of five years from the day following the expiry date of the variety protection, if the variety continues to comply with the requirements of this Act, based on the written application of the owner of the variety.

(2) To extend the validity period of the variety protection, the owner of the variety submits an application to the registrar two years before the expiry of the validity period of the variety protection.

(3) The registrar makes a decision to extend the validity period of the variety protection or to refuse it at least 20 working days before the expiry of the validity period of the variety protection.

#### **§ 49. Termination of validity of variety protection**

(1) The registrar makes a decision to revoke the decision to take the variety under protection, if:

- 1) the owner of the variety has submitted a written application to the registrar;
- 2) the prescription has not been fulfilled by the deadline specified in the prescription;
- 3) a new variety name proposal has not been submitted within the time limit set for this purpose;
- 4) the variety has not been preserved;
- 5) no state fee has been paid for keeping the variety under variety protection.

(2) The owner of the variety indicates in the submitted application when he wishes to terminate the variety protection, in the absence of this, the date of receipt of the application shall be considered as the termination of the variety protection.

(3) The registrar shall make a decision to invalidate the decision to place the variety under protection either within 30 working days of receiving the application provided for in subsection 1, point 1 of this section, learning of the circumstances specified in points 2 or 4, or the expiration of the term specified in point 3, and shall make a corresponding entry in the variety register.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

#### **§ 50. Termination of validity of variety protection retroactively**

(1) The registrar makes a decision to retroactively invalidate the decision to take the variety under protection on his own initiative or based on the application of an interested person, if after taking the variety under protection it turns out that:

- 1) the variety did not meet the requirement of novelty or distinctiveness at the moment of determining the priority of taking under protection;
- 2) the variety, which was taken under protection on the basis of the documents submitted by the applicant for variety protection and the results of registration tests performed by the relevant competent authority of a foreign country, did not meet the requirement of uniformity or permanence;
- 3) the protected variety certificate was issued to a person who did not have the right to apply for variety protection.

(2) The registrar makes a decision to retroactively invalidate the decision to take the variety under protection within 30 working days from the proof of the fact specified in subsection 1 of this section and makes a corresponding entry in the variety register.

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

(3) In case of retroactive annulment of the decision to take the variety under protection, the variety protection is declared invalid from the beginning.

#### **§ 51. Transfer of the rights of the owner of the protected variety**

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

(2) In the event of the death of the natural person variety owner or the termination of the legal person variety owner, the rights of the variety owner are transferred to the heir or legal successor.

(3) To change the data of the owner of a protected variety in the register, the person to whom the rights of the owner of the variety are transferred submits an application to the registrar, to which is attached a document certifying the transfer or an officially certified copy thereof.

(4) The application referred to in subsection 3 of this section shall be submitted to the registrar within one year from the date of creation of the right of succession or the creation of legal succession specified in the transaction. If the rights of the owner of the variety are transferred on the basis of a judgment, the application is submitted to the registrar within 30 working days from the entry into force of the judgment.

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

(6) The rights of the owner of the variety are deemed to have been transferred to another person from the day of the transfer determined by the transaction or court decision, from the day the right of inheritance or legal succession arises.

(7) A person to whom the rights of the owner of the variety have been transferred on the basis and in the manner provided for in this section may start using the rights of the owner of the variety from the day of making the register entry provided for in subsection 5 of this section.

## **Section 4 License and Compulsory License**

### **§ 52. License**

(1) The owner of a protected variety (licensor) may grant the rights of the owner of the variety specified in subsection 2 of § 35 of this Act to another person (licensee) with a written license agreement (hereinafter *license* ).

(2) If the rights of the owner of the protected variety are transferred to another person, the rights and obligations arising from the license are also transferred to that person.

### **§ 53. Compulsory license**

(1) A compulsory license is a simple license granted by the minister responsible for the field, if the owner of the protected variety refuses to grant the license, to a person who is interested in using the protected variety and is able to do so:

- 1) if it is necessary to use the protected variety in the public interest, or
- 2) if the licensor has not used the variety himself or granted another person a license to use the variety within three years since the variety was taken under protection.

(2) In order to obtain a compulsory license, a person interested in the use of a protected variety shall submit an appropriate application to the minister responsible for the field.

(3) The data proving the circumstances specified in subsection 1 of this section shall be noted on the application for obtaining a compulsory license.

### **§ 54. Issuance of a compulsory license**

(1) The minister responsible for the field assesses the justification for issuing a compulsory license based on the data of the application submitted for obtaining a compulsory licence.

(2) The minister responsible for the field makes a decision on issuing or refusing to issue a compulsory license within 30 working days of receiving the application.

(3) The right to use a protected variety arising from a compulsory license arises in the licensee from the day of the relevant entry in the variety register.

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

(4) Granting a compulsory license does not prevent the owner of the variety from using the protected variety or from granting a license to another person.

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

(1) The scope and territory of the exercise of the rights arising from the protected variety to be transferred shall be indicated in the compulsory license, and the amount of the license fee, which the licensee is obliged to pay to the owner of the protected variety, shall be prescribed. The amount of the license fee is determined based on the average license fee rate applicable to the plant species concerned. In the case of a compulsory license for the use of a derived variety, a fee is also provided for the owner of the protected original variety.

(2) The owner of such a protected variety, for the use of which a compulsory license has been issued, is obliged to transfer to the licensee for a fee the seed or propagating material of this variety in the amount necessary for the propagation of the variety at the market price of an analogous variety.

(3) A compulsory license is issued for a term of two to four years. If the circumstances that led to the issuance of a compulsory license continue even during the expiration of the term of the compulsory license, the minister responsible for the field has the right to issue a compulsory license for another four years based on the request of the licensee.

### **§ 56. Termination of compulsory license**

The minister responsible for the field declares the compulsory license invalid before the expiry of the term of the compulsory license if:

- 1) the licensee violates the conditions of the compulsory licence;
- 2) the need to issue a compulsory license has disappeared.

## **Section 5 Variety register**

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

### **§ 57. Establishment of the variety register and organization of its activities**

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

(1) The variety register (hereinafter *the register* ) is established and its statutes are established by the minister responsible for the field by regulation.

(2) The purpose of the register is to ensure the preservation of the variety, the protection of the rights of the owner of the protected variety, the performance of the duties of the registrar arising from the law and the effective supervision of the fulfillment of the requirements set forth in this Act.

[ RT I, 19.03.2019, 7 - enters into force. 01.01.2020]

(3) The responsible processor of the register is the Ministry of Regional Affairs and Agriculture, and the authorized processor is designated in the statute of the register.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced by the words "Ministry of Regional and Agricultural Affairs" in the corresponding case]

#### **§ 58. Data entered in the register**

(1) The information prescribed in this Act about the variety and the name of the applicant, the owner of the variety, the breeder of the variety, the representative of the variety and the custodian of the variety, the registry or personal identification code or, in the absence of a personal identification number, the date of birth, contact details, if there is a representative of the person, his name and contact details, as well as the variety the method of acquisition of the owner's rights and the OECD code of the keeper of the variety.

[ RT I, 13.03.2019, 2 - enters into force. 15.03.2019]

(2) Entry in the register is made on the basis of a submitted application or a decision of the registrar.

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

The registrar refuses to make an entry in the register if:

1) the state fee is unpaid;

2) the applicant has knowingly submitted false information to the Agriculture and Food Board or has influenced the Agriculture and Food Board in an illegal manner.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

#### **§ 60. Changing a register entry**

(1) In the event of a change in the data on which the register entry was made, the person shall notify the registrar in writing within 14 days of the data change.

(2) The registrar makes a decision to change the register entry within five working days after receiving the relevant notification.

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

(1) Data entered in the register, with the exception of data not subject to disclosure, are public and are published on the registrar's website, and may also be published in paper form.

[ RT I, 13.03.2019, 2 - enters into force. 15.03.2019]

(2) The availability of data not subject to disclosure and data recognized for internal use by law is limited and may be used professionally by the Agriculture and Food Board.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

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

(4) Register data shall be stored permanently.

### **Chapter 3 PRODUCTION AND CERTIFICATION**

#### **§ 62. Production**

(1) For the purposes of this Act, the production of seed or propagating material is propagation of seed or propagating material by vegetative or other means, cultivation, processing, storage and packaging for marketing purposes.

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

(2) Cultivation material production within the meaning of this Act is the cultivation, collection, processing, storage and packaging of forest tree seeds for marketing purposes and the cultivation of forest planting material from seeds, plant parts or plants.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 63. Supplier of propagation and cultivation material**

(1) For the purposes of this Act, a supplier of propagating and cultivating material is a person who is engaged in propagating, producing, storing, processing, marketing or importing propagating or cultivating material.

(2) The supplier of propagating and cultivating material submits an economic activity notification to the Agriculture and Food Board before starting the activity.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(3) The supplier of reproduction material does not have to submit an economic activity notice:

1

1) to operate in the field of activity specified in § 65

of this Act; 2) to perform the activities specified in § 31 (2) point 1 of the Plant Protection Act.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(4) In addition to the data provided in the general part of the Code of Economic Activities, the information provided in § 31 subsection 3 of the Plant Protection Act is presented in the economic activity notification.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

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

(1) [Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

(2) The supplier of propagating and cultivating material shall take all necessary measures to ensure the production of propagating and cultivating material in accordance with the requirements of this Act and proper propagating and cultivating material.

(3) In order to fulfill the requirement specified in subsection 2 of this section, the supplier of propagating material and the supplier of cultivation material, which is involved in the production of forest tree plants, determines the important critical points of production and the measures implemented in them based on the production method, documents them and ensures the implementation of these measures (hereinafter *self-control system*).

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(4) The self-control system of the supplier of cultivation material must follow the production method of the cultivation material and include requirements and an action plan for the prevention of plant pests that reduce the quality of the cultivation material and dangerous plant pests and for the assessment of plant quality.

(5) The requirements for the self-control system of the supplier of reproduction material shall be established by a regulation of the minister responsible for the field .

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(6) The requirements for the self-inspection system of the supplier of cultivation material engaged in the production of forest tree plants shall be established by the minister responsible for the field .

## **§ 65. Requirements for production and the plot of land, building, facility and plant material used for production**

(1) The seed producer and supplier of propagating or cultivating material ensures that the seed and propagating or cultivating material is produced:

[ RT I, 30.06.2020, 7 - entered into force. 01.07.2020]

1) in a field, plot of land, building or facility used for production, excluding seed or plant contamination with a dangerous plant pest;

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

1

1) ) in a field, plot of land, building or facility used for production, excluding contamination of the produced seed or plant with a plant pest that reduces the quality of a plant species or group of species above the established limit;

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

2) in the case of cultivation material, using appropriate technology;

3) in the case of micropropagation of a plant species in an appropriate laboratory.

1

(1) ) A supplier who detects the presence of a plant pest that reduces the quality of this plant species in excess of the limit on the plot of land used for the production of propagating and cultivating material or on the propagating or cultivating material grown in the building or facility used for the production of propagating and cultivating material shall immediately inform the law enforcement body and take the measures required by the law enforcement body.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

2

(1) ) A quality-reducing plant pest in the sense of this law is defined in Regulation (EU) 2016/2031 of the European Parliament and of the Council, which deals with protective measures against plant pests, amending Regulations (EU) No. 228/2013, (EU) No. 652/2014 of the European Parliament and the Council and (EU) No. 1143/2014 and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4–104), the plant pest referred to in Article 36.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(2) Propagation and cultivation material produced by micropropagation must be true to species and variety.

(3) In the case of forest tree seed production in the seedbed, the offspring of the positive trees recognized by the Environmental Board are used to establish the seedbed.

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

(4) The list of plant pests that reduce the quality of seed and propagation and cultivation material of a plant species or group of species and the limit of their presence shall be established by a regulation of the minister responsible for the field .

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(5) Requirements for the micropropagation of propagating material and the laboratory shall be established by the minister responsible for the field .

(6) Requirements for the laboratory used for micropropagation of culture material shall be established by the minister responsible for the field .

(7) The requirements for the production of seed and propagating material of the variety intended for the preservation of genetic resources and genetic resources shall be established by the minister responsible for the field .

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

(8) The requirements set forth in this section apply to the production of seed of a hybrid variety, cross parents of propagating or cultivating material, and rootstocks of propagating or cultivating material.

1

## **§ 65 . Licensing obligation for micropropagation of a plant species**

The entrepreneur must have an activity permit for the micropropagation of the plant species.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]



## **§ 66. Application for an activity permit**

(1) The request for an activity permit for the micropropagation of a plant species is resolved by the Agriculture and Food Board in the case of propagating material and the Environment Board in the case of forest tree plants.

(2) In addition to the data provided in the general part of the Code of Economic Activities, the application for an activity license shall provide the following data:

- 1) plant species that is to be propagated;
- 2) the location and area of real estate used for production, the name and marking of existing equipment, the number of qualified employees, an indication of the fencing of the production territory and the availability of irrigation facilities necessary for crop production.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

## **§ 67. Suspension of the validity of the license for the production of cultivation material**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

## **§ 68. Revocation of license for the production of cultivation material**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

## **§ 69. Activity permit for micropropagation of a plant species and the procedure for issuing it**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

## **§ 70. Inspection object of activity permit**

An entrepreneur is granted an activity license if he and his company meet the requirements arising from this law.

[ RT I, 25.03.2011, 1 - enters into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

## **§ 71. Side conditions of activity permit**

The plant species allowed for propagation is added as a secondary condition to the activity permit granted for the micropropagation of a plant species.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

## **§ 72. Requirements for the production of a mixture of fodder crop seeds**

[ RT I, 09.11.2011, 3 - entered into force. 19.11.2011]

(1) In order to produce a seed mixture of forage crops, a person must have a device suitable for the production of a seed batch of uniform quality, a technological scheme for the production of a seed mixture and a designated person responsible for the production of a proper seed mixture, and he must keep records of the production of seed mixtures.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

(2) A person engaged in the production of seed mixture of fodder crops must inform the Agriculture and Food Board no later than seven days before starting the production of the seed mixture of the mass percentage of the seeds that are part of this mixture by plant species and varieties and the name of the seed mixture.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

(3) The Agriculture and Food Board publishes data on the person engaged in the production of the fodder crop seed mixture, his company, the name of the fodder crop seed mixture being produced, and the species and varieties of the fodder crop plant included in the mixture on its website. At the same time, the seed mixture of forage crops is given a unique code, which indicates the batch number of the seed mixture, in which the species and varietal composition of the seed mixture is indicated.

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

(4) A person engaged in the production of a mixture of fodder seeds keeps records of the types, varieties and quantities of plants used in production, the quantities of the produced mixture and the species and varieties of the mixture.

(5) More detailed requirements for the production of preservation mixture shall be established by a regulation of the minister responsible for the field .

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

## **§ 73. Seed and propagation and cultivation material certification**

(1) Seed and propagating material certification is the verification of their parentage, species and variety purity, species and variety purity and quality, and compliance with plant health requirements in accordance with internationally established requirements, and the sealing and labeling of seed and propagating material packages under the supervision of the Agriculture and Food Board. Depending on the plant species or group of species, field recognition, sample analysis and follow-up field tests are performed during certification.

(2) Field certification is the determination of the parentage of the seed and propagating material as well as the species and varietal authenticity and species and varietal purity of the growing seedling.

(3) Field recognition of fruit and berry culture and seed potatoes is considered to be the evaluation of seed and propagating material's parentage, species and variety purity, species and variety purity, and the presence of plant pests.

(4) Field certification is performed by the Agriculture and Food Board in the case of reproductive material and super-elite and elite category seed, and in the case of certified category seed by the Agriculture and Food Board or an entrepreneur with a field certification license.

(5) The sample is taken by the Agriculture and Food Board or, in the case of seed, by an entrepreneur who has a sampling permit.

(6) In the case of seed, the sample is analyzed by an entrepreneur who has an activity license for analyzing seed samples, or by a state institution that meets the requirements of the activity license.

(7) The applicant for certification shall pay for field recognition, sampling and analysis of seeds on the basis of an invoice. The applicant for certification pays a state fee for field recognition and sampling by the Agriculture and Food Board.

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

(9) Sample sizes and requirements for determining the adequacy of seed and propagating material shall be established by regulation of the minister responsible for the field .

(10) Cultivation material certification is the verification of the origin, species authenticity and quality of the source material of the cultivation material and compliance with plant health requirements in accordance with internationally established requirements and the issuance of a document certifying the certification and, in the case of seed batches, also the sealing and marking of packages under the supervision of the Environmental Board. During certification, forest tree seeds are analyzed in an accredited laboratory according to an internationally recognized method.

(11) The Environmental Board takes a sample of the cultivation material.

(12) The procedure for certification of cultivation material and the requirements for sampling shall be established by a regulation of the minister responsible for the field .

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 74. Organization and scope of certification**

(1) Seed and propagating material certification is organized by the Agriculture and Food Board based on the request of the owner, representative or keeper of the seed or propagating material variety. Certification of cultivation material is organized by the Environmental Board based on the request of a supplier involved in the production or distribution of cultivation material.

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

(2) Cultivation material, seed and seed potatoes of a variety taken from a variety sheet or EU crop or vegetable crop variety sheet and propagation material of a variety taken from a variety sheet or EU variety sheet of fruit and berry crops shall be certified.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

1

(2 ) The seed of an agricultural or vegetable crop variety taken in the variety list and the propagating material of a fruit or berry crop variety from the species whose varieties are not included in the EU crop, vegetable crop or fruit and berry crop variety list shall be certified and checked in Estonia.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) If a variety is excluded from the variety list, its seed and seed potatoes are certified and allowed to be marketed until June 30 of the third year from the year of exclusion.

(4) In the case of the seed and propagating material of a hybrid variety to be certified, the cross parent used for the production of the seed or propagating material and the component of the variety must be certified.

(5) The list of agricultural and horticultural crops to be certified shall be established by the minister responsible for the field .

(6) The list of forest tree species to be certified shall be established by the minister responsible for the field .

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

#### **§ 75. Document certifying certification and its validity**

(1) The Agriculture and Food Board issues a certificate of certification for a batch of certified seed and propagating material, and a document certifying certification is issued by the Environmental Board for a batch of certified cultivation material.

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

(2) The requirements for the content of the document certifying the certification of seed and propagation material by plant species or group of species shall be established by the minister responsible for the field .

(3) The requirements for the content of the document certifying the certification of cultivation material shall be established by the minister responsible for the field .

(4) The validity period of the document certifying the certification of seed and propagating material of agricultural and horticultural crops by plant species and groups of species shall be established by the minister responsible for the field .

(5) The validity of the document certifying the certification of cultivation material is determined by the issuer of the document depending on the quality of the batch of cultivation material.

(6) The validity period of the document certifying seed certification may be extended at the request of the owner of the seed lot. For this purpose, the owner of the seed lot submits a corresponding request to the Agriculture and Food Board or, in the case of cultivation material, to the Environment Board no later than 30 days before the expiration of the document certifying certification.

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

(7) If the seed batch complies with the requirements established for the germination of the certified seed, the Agricultural and Food Board or the Environmental Board shall extend the validity of the document certifying the certification by making notes on the extension of the validity period.

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

#### **§ 76. Other seed and propagation and cultivation material**

(1) For the purposes of this Act, other seed is the proper standard or commercial seed of the plant species to be certified, the seed of a variety intended for the preservation of genetic resources, or the proper seed of a plant species that is not subject to certification.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(2) Other propagating and cultivating material within the meaning of this Act is proper propagating and cultivating material of uncertified and non-certifiable plant species of the plant species to be certified, and propagating material of the variety intended for the preservation of genetic resources.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020 ]

(3) Compliance of other seed with quality requirements is ensured by the producer or distributor. Compliance with quality requirements of other propagating and cultivating material is ensured by the supplier.

(4) Quality requirements for other seed and propagating material by plant species or group of species shall be established by the minister responsible for the field .

(5) Quality requirements for other cultivation material shall be established by the minister responsible for the field .

(6) In the case of hybrid variety seed and propagating and cultivating material, the quality requirements set forth in this section apply to all hybrid parents and variety components used for the production of seed or propagating material.

1

#### **§ 76 . Production of seed and propagating material of varieties intended for conservation of genetic resources**

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

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

(2) The suitability of the seed of the variety intended for the preservation of genetic resources is guaranteed by the producer or distributor, and the propriety of the propagating material of the variety intended for the preservation of genetic resources is ensured by the supplier.

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

(3) The producer or supplier organizes the field recognition and sample analysis of the seed and seed potato of the variety intended for the preservation of genetic resources.

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

(4) The producer or supplier shall certify the seed and seed potato of the variety intended for the preservation of genetic resources in accordance with international requirements. In order to ensure the correctness of the certification of the seed and seed potato of the variety intended for the conservation of genetic resources, field recognition is carried out and sample analysis and follow-up field tests are organized.

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

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

(1) A supplier engaged in the production of propagating or cultivating material shall keep a field book on the basis of the Water Act for the land area used for this purpose, and in the case of the use of a building or facility, shall have its use plan.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

(2) For the purposes of this Act, a utilization plan is a set of data kept and stored on paper or digitally, which contains the data of the supplier using the building or facility for the production of propagating or cultivating material and the data of the building or facility used for the production of propagating or cultivating material, such as the type of building or facility, area and information about the species of plants produced in it.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

(3) The seed producer keeps a field book.

(4) A seed producer and a supplier engaged in the production of propagating or cultivating material shall keep accurate records of the fulfillment of the requirements established for the production of seed and propagating or cultivating material. Records relating to the production of seed and seed potatoes shall be kept for five years, and records relating to the production of propagating and cultivating material shall be kept for three years.

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

### **Chapter 4**

#### **FIELD DETERMINER AND SEED SAMPLER AND SEED CONTROL LABORATORY**

**[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]**

#### **§ 78. Field recognition permit obligation**

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

(1) For field recognition, an entrepreneur must have a field recognition activity permit.

(2) The field certification activity permit gives the entrepreneur the right to perform field certification only for the plant species group specified in the activity permit.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 79. Application for an activity permit for field recognition**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019 ]

(1) The application for a field recognition activity license is resolved by the Agricultural and Food Board by granting or refusing a field recognition activity license.

(2) In addition to the data provided in subsection 2 of § 19 of the Act on the General Part of the Code of Economic Activities, the following data shall be submitted in the application for a field recognition activity permit:

- 1) the number of a valid field recognition certificate of completion of the basic training;
- 2) data on the plant species group whose field recognition is desired;

3) information on whether it is desired to provide a field recognition service;  
4) the name and contact details of the person who meets the requirements of the field appraiser and his signed confirmation that he acts impartially, gives an assessment of the seed field in accordance with its actual situation, and performs the field appraisal in accordance with the procedure provided for in this Act and the legislation established on the basis of this Act.

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

(4) A person shall not pay a state fee for processing an application for a field recognition activity permit.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 80. Inspection object of field recognition activity permit**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019 ]

An entrepreneur is granted a field recognition license if he himself or a compliant person working in his company with whom he has a contractual relationship has completed field recognition training in accordance with § 82 of this Act and has a valid certificate to that effect.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 81. Additional conditions of the field recognition activity permit**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019 ]

The name of the field recognition operator, data on the plant species group for which the field recognition license has been granted, and the right to provide field recognition services are added as a side condition to the field recognition activity license, if the entrepreneur has requested it in the application for the field recognition activity license.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 82. Field appraiser training**

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

- (1) The agricultural appraiser training is organized by the Agriculture and Food Board.
- (2) Field appraiser training consists of basic training and additional training.
- (3) The basic training includes a theoretical part and a practical part, which consists of participating in the field recognition of plants during one growing season.
- (4) The basic training of a field appraiser ends with an exam.
- (5) A person who did not pass the examination specified in subsection 4 of this section is allowed to take a repeat examination during the next growing season of the plants. A person who did not pass the re-examination will undergo the basic training of the field appraiser again.
- (6) A certificate valid for an indefinite period is issued to the person for completing the basic training of a field appraiser.
- (7) A person who has received the certificate specified in subsection 6 of this section for completion of the basic training of a field appraiser shall undergo additional training of a field appraiser once every two years.
- (8) The certificate of completion of the basic training of a field appraiser is valid for two years from the date of issuance of the certificate, if the person has not:
  - 1) completed additional field appraiser training within two years from the year the certificate was issued, or
  - 2) performed field appraisal of plants during two consecutive growing seasons.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 83. Field recognition requirements**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019 ]

- (1) The field appraiser performs the field appraisal in accordance with the procedure provided for in this Act and in the legislation established on the basis of this Act.
- (2) The field appraiser gives an assessment of the seed field in accordance with its actual situation and formalizes the field approving protocol for it, which he gives to the Agricultural and Food Board or the person ordering the field appraisal within ten working days, and in the case of winter crop field appraisal, within five working days after the field appraisal.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 84. Obligation to obtain a permit for taking a semen sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019 ]

In order to determine seed quality and to take a seed sample from a certifiable seed batch that has been brought into sales condition and intended for marketing for follow-up field tests, the entrepreneur must have a seed sampling license.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019 ]

#### **§ 85. Application for an activity permit for taking a semen sample**

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

- (1) The request for an activity permit for taking a seed sample shall be resolved by the granting or refusal of an activity permit by the Agriculture and Food Board.
- (2) In addition to the data provided in § 19 subsection 2 of the General Part of the Economic Activity Code Act, the following data shall be submitted in the application for a seed sampling activity permit:
  - 1) the number of a valid seed sampler's basic training certificate number;
  - 2) name and contact details of the person who meets the requirements of the semen sampler;
  - 3) information on whether it is desired to provide a semen sampling service.

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

(4) A person shall not pay a state fee for the settlement of an application for a semen sampling activity permit.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 86. Inspection object of the activity permit for taking a semen sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

An entrepreneur is granted an activity permit for taking a semen sample, if he himself or a person who meets the requirements of a semen sampler operating in his company, with whom he has a contractual relationship, has completed the training of a semen sampler in accordance with § 88 of this Act, has a valid certificate for this and has the appropriate technical means for taking a semen sample .

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 87. Side condition of the activity permit for taking a seed sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

The name of the semen sampler and the right to provide the sampling service are added to the semen sampling activity license as a side condition, if the entrepreneur has requested it in the activity license application.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 88. Training of a semen sampler**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(1) The seed sampler undergoes training for taking seed samples at a laboratory accredited by the International Seed Testing Association ( *hereinafter* ISTA ).

(2) The training of a semen sampler consists of basic training and additional training.

(3) The basic training of a semen sampler ends with an exam.

(4) A person who did not take the exam specified in subsection 3 of this section is allowed to take a repeat exam within a year from the time of not taking the exam. A person who did not pass the re-examination will undergo the basic training of a semen sampler again.

(5) A certificate valid for an indefinite period is issued to the person for completing the basic training of a semen sampler.

(6) A person who has received a certificate of completion of the basic training for a semen sampler specified in subsection 5 of this section shall undergo additional training for semen sampling every year.

(7) The certificate issued on completion of the basic training of a seed sampler is valid for one year from the year of issuing the certificate, if the person:

1) has not participated in the additional training of a seed sampler within one year from the year of issuing the certificate, or

2) has taken less than ten seed samples during the calendar year.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 89. Requirements for taking a semen sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(1) The seed sample taker:

1) takes samples according to the internationally established methodology;

2) performs his duties impartially and properly;

3) prepares a protocol for taking a semen sample;

4) closes the sales package or container of the seed batch to be certified with a security sticker or seal;

5) labels the sales package or container of the certified seed batch with a label issued by the Agriculture and Food Board or allowed to be printed by the producer himself;

6) ensures the legal, proper and accurate preparation and formalization of the order form, the labels and security stickers of the seed sample bag.

(2) The seed samples taken by the seed sampler are analyzed to determine the quality of the seed in a seed control laboratory accredited by a private person or the national accreditation body of a contracting state of Estonia or the European Economic Area.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 90. Obligation for permission to analyze a semen sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

In order to analyze the seed sample taken from the seed lot to be certified to determine its quality, the entrepreneur must have a license to analyze the seed sample.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 91. Application for an activity permit for semen sample analysis**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(1) The request for an activity permit for the analysis of a seed sample shall be resolved by the granting or refusal of an activity permit by the Agriculture and Food Board.

(2) In addition to the data provided in § 19 subsection 2 of the General Part of the Economic Activity Code Act, the following data and documents are submitted in the application for a seed sample analysis license:

1) the name and contact information of the seed analyst and the leading seed analyst;

2) a copy of the document certifying the accreditation of the seed control laboratory;

- 3) data on the analysis methods used;
- 4) information on whether it is desired to provide the service of determining the quality of the seed of the seed batch to be certified.

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

(4) A person shall not pay a state fee for resolving an application for an activity permit for the analysis of a semen sample.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 92. Inspection object of activity permit for analysis of semen sample**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

An entrepreneur is granted a seed sample analysis license if he has a seed control laboratory that meets the requirements of this law.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 93. Fee of authorized field appraiser and authorized seed sampler**

[Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

1

#### **§ 93 . Side condition of the license to analyze the semen sample**

The name of the seed analyst and the leading seed analyst and the right to provide the service of determining the quality of the seed lot to be certified are added to the activity license as a secondary condition, if the entrepreneur has requested it in the activity license application.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

2

#### **§ 93 . Requirements for a seed testing laboratory**

(1) The seed control laboratory has been accredited by the national accreditation body of Estonia or a contracting state of the European Economic Area to analyze the seed sample taken from the seed lot to be certified and to determine the quality of the seed.

(2) In the seed control laboratory, the seed sample is analyzed according to internationally established requirements, using internationally recognized methods.

(3) The seed analyst working in the seed control laboratory has the technical qualification to work in the laboratory.

(4) The leading seed analyst working in the seed control laboratory is responsible for the technical operations performed in the laboratory and has the necessary qualifications to manage the seed control laboratory.

(5) A management and quality system is implemented in the seed control laboratory and duplicate samples are taken from all seed lots to be certified, which are stored for at least one year from the date of the sample analysis. At least once a year, the laboratory participates in comparative tests with satisfactory results.

(6) The analysis of samples is documented in the seed control laboratory. Data and documents related to the analysis of the sample are kept for five years from the date of analysis of the sample.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

## **Chapter 5 PACKAGING**

#### **§ 94. Seed and propagation and cultivation material packaging**

(1) For the purposes of this Act, the packaging of seed, including forest tree seed, certified fruit and berry culture propagating material, and seed potatoes is their packaging in a sales package and the closing of the sales package and its labeling.

(2) For the purposes of this Act, the packaging of horticulture propagating material, except for certified fruit and berry propagating material, and cultivation material is the labeling of propagating material prepared for sale and the sales package of forest plants.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

#### **§ 95. Notification obligation of the packager of seeds, except for forest tree seeds**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

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

(2) For seed packaging, an economic activity notification is submitted to the Agriculture and Food Board before starting the activity.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) In addition to the general part of the Code of Economic Activities, the following information shall be provided in the notice of economic activity:

1) whether it is intended to engage in the packaging of cereal seed, fodder crop seed, seed of oil or fiber crops, beet seed or seed of vegetable crops, packaging of fodder crop seed, beet seed or seed of vegetable crops in small packages, or packaging of grain, fodder crops, by packaging the seed mixture of oil or fiber crops or vegetable crops;

2) data on the measures implemented to prevent the mixing of seeds of different species and varieties, generations, batches or field crops and the method of seed storage;

3) brief description of packaging process technology;

4) data on whether, in addition to the seeds intended for certification, the enterprise produces and packages consumer seed of fodder crops, oil or fiber crops, standard seed of vegetable crops or seed of genetic resources;

5) data on the measures and substances used for the cleaning and disinfection of premises, equipment, tools and other necessary equipment;

6) data on the measures implemented for pest control;

- 7) the name and contact details of the person responsible for the packaging of seeds, the name and contact details of the person responsible for the production of the correct seed mixture in the case of the packaging of the forage crop seed mixture;
- 8) data on designed and planned or actual handling capacity, including the capacity of storage rooms;
- 9) information on the measures to be implemented for the collection, removal and destruction of waste and non-compliant seed.

(4) The data of the economic activity notification shall be entered in the plant health register established on the basis of § 30 (1) of the Plant Protection Act.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

#### **§ 96. Requirements for the seed packer and seed packaging**

(1) In order to package the seed, the person must have a suitable building or room (hereafter *packaging place* ), suitable equipment, means and other necessary equipment for the proper packaging of the seed in sales packaging, a technological diagram of the packaging process, which shows the parameters important for preventing the mixing of seed batches, as well as a plan of the premises with equipment and facility with a layout plan showing the movement paths of seed, non-compliant seed and waste, and the designated person responsible for packaging.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

1

(1 ) The building or room used for seed packaging must meet the following requirements:

- 1) have a suitable microclimate for seed storage;
- 2) enable the storage of packaged seed in a way that excludes the mixing of seeds of different species, varieties, generations, batches or field crops;
- 3) enable the packaging of seeds in a separate room from the seed storage room or in a separated part of the room, where there are suitable devices and means for bringing the seeds to sale condition and packing them in sales packaging, including a recorded weight.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

2

(1 ) If a person wants to use an automatic sampling device, he must have an automatic sampling device recognized as appropriate by an ISTA accredited laboratory and a document proving it, as well as a technological diagram of automatic sampling and a person responsible for the appropriateness of the designated device and its use. The person must keep records of the use and maintenance of the automatic sampling device.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

3

(1 ) In order to use an automatic sampling device, a person must submit a notification to the Agriculture and Food Board with the

2

documents and data specified in subsection 1 of this section , indicating the plant species 1 or group of species for which the automatic sampling device is used, no later than seven days before starting use.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

4

(1 ) If a person wants to print labels, he must have the equipment and tools necessary to print a proper label and the person responsible for printing the designated label. The person must keep records of the printing of labels.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

5

(1 ) In order to print labels, a person must submit a notification to the Agriculture and Food Board with the data specified in

4

subsection 1 of this section , indicating the plant species or group of species and the category for which the labels will be printed for seed packaging, no later than seven days before the start of printing.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

6

(1 ) The person responsible for packaging the standard seed of vegetable crops, the seed of the preservation variety, the standard seed of the preservation variety and the seed of the variety bred for growing under special conditions:

- 1) informs the Agriculture and Food Board of the dates of the start and end of packaging no later than seven days before starting or ending the packaging of the seeds in sales packaging;
- 2) takes a seed sample from each batch of standard seed, storage variety seed, storage variety standard seed, and variety seed bred for growing under special conditions and keeps these samples for at least two years.

[ RT I, 29.06.2014, 1 - enters into force. 01.07.2014]

(2) The requirements for the packaging of agricultural or vegetable seed are established by the minister responsible for the field .

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

#### **§ 97. Notification obligation of the forest tree seed packer**

[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

(1) For the packaging of forest tree seed, an economic activity notification is submitted to the Environmental Board before starting the activity.

(2) In addition to the general part of the Code of Economic Activities, the following information shall be provided in the notice of economic activity:

- 1) the name of the tree species whose seeds are to be packaged;
- 2) description of the existing building for packaging and its location, name and marking of the existing equipment.

(3) The requirements for the packaging and the place of packaging of forest tree seeds shall be established by a regulation of the minister responsible for the field .

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

1

**§ 97 . Inspection item for the activity permit for the packaging of forest tree seeds**

[Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

2

**§ 97 . Additional conditions of the license for the packaging of forest tree seeds**

[Repealed - RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

**§ 98. Suspension of validity of the seed packaging permit**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

**§ 99. Revocation of seed packaging permit**

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

**§ 100. Requirements for closing the sales package**

(1) Certified seed, propagating material for fruit and berry crops and seed potatoes are packaged and the sales package is sealed and labeled under the supervision of the Agriculture and Food Board.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

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

**§ 101. Marking requirements**

(1) The sales package of certified seed, fruit and berry crop propagating material and seed potatoes, and the lot of propagating or cultivating material shall be provided with a document certifying certification issued by the Agriculture and Food Board or the Environment Board. In the case of a batch of propagating material of a plant species equipped with a plant passport, the data specified in Part C of Annex VII of Regulation (EU) 2016/2031 of the European Parliament and of the Council shall be recorded on the document certifying certification.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(2) In the case of seeds of agricultural and vegetable crops and propagating material of fruit and berry crops, the information required on the label of the manufacturer or supplier may be printed on the label or sales package in accordance with the procedure prescribed for that purpose.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) The sales package of other seeds shall be equipped with a proper label or a document issued by the manufacturer. The sales package or batch of other propagating and cultivating material is provided with a product description or supplier's document and, where applicable, a plant passport.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(4) Requirements for packaging and closing the sales package of seeds, seed potatoes and seed potatoes of a variety intended for the preservation of genetic resources, requirements for labeling the seed and seed potato of a variety intended for the preservation of seed, seed potatoes, and genetic resources, as well as labeling requirements for the lot of seed and propagation material of horticultural crops, the procedure for issuing documents proving certification or inspection and the requirements for the content and form of the labels by plant species or group of species are established by the minister responsible for the field by regulation.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(5) The requirements for the packaging, sealing and labeling of the cultivation material, as well as the requirements for the content of documents and labels proving certification or inspection shall be established by a regulation of the minister responsible for the field .

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(6) A plant passport is provided for the sales package or lot of propagating and cultivating material of such plant species, which are included in the list established on the basis of Article 37(2) of Regulation (EU) 2016/2031 of the European Parliament and of the Council.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

**§ 102. Data storage and record keeping**

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

(2) A person engaged in the packaging of seed, seed potatoes and cultivation material shall keep accurate records of his activities. The documentation on the packaging of the seed shall be kept for at least five years. Documentation on the packaging of propagation and cultivation material shall be kept for three years.

## **Chapter 6 MARKETING**

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

(1) Marketing within the meaning of this Act is offering seed and propagating and cultivating material for sale, possessing for the purpose of sale, selling or otherwise transferring it free of charge or for a fee.

(2) The transfer of grain, fodder, oil, fiber and vegetable crops and beet seed and seed potatoes for experiments, including research or breeding work, or for production, is not considered to be marketing, if the ownership right to this seed or the fruit obtained from it is not transferred.

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



(1) Marketable seed and propagating material of a variety listed in the variety list must be certified. Cultivation material to be marketed must be certified and meet quality requirements.

(2) Seed and propagating material of the plant species specified in the list of plant species to be certified, which are marketed as seed or propagating material of the controlled category, must meet the quality requirements established for the seed or propagating material of this category on the basis of § 3 (3) and § 4 (3) of this Act.

(3) Marketed other seed and propagating and cultivating material must meet the quality requirements established on the basis of subsections 4 and 5 of § 76 of this Act.

<sup>1</sup>  
(3 ) Marketable seed and propagating material of a variety intended for the preservation of genetic resources must meet the requirements set forth in subsections 3 and 4 of § 6<sup>1</sup> of this Act .  
[ RT I 2009, 48, 321 - entry into force. 23.10.2009]

(4) The requirements for the marketing of seeds and propagating material and genetic resources intended for the preservation of seed and propagating material shall be established by the minister responsible for the field .  
[ RT I 2009, 48, 321 - entry into force. 23.10.2009]

(5) The minister responsible for the field establishes the quality requirements for the cultivation material to be marketed .

(6) The minister responsible for the field may issue regulations to establish more precise requirements in order to implement the decisions of the European Commission which allow the marketing of seed and seed potatoes that do not meet the requirements of this Act and the legislation established on the basis thereof.  
[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

(7) If, in accordance with subsection 6 of this section, seeds and seed potatoes may be marketed only with the permission of a competent authority, the Agriculture and Food Board decides whether to grant or refuse marketing permission.  
[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

#### **§ 105. Documents certifying the certification and quality of marketed seed and propagating and cultivating material**

(1) The batch of seed and propagating material specified in § 104 subsection 1 of this Act shall be provided with a document certifying certification.

(2) The batch of seed and propagating material specified in subsection 104 (2) of this Act shall be provided with a document certifying its origin and species and, if required, also its variety and quality.

(3) The batch of seed and propagating or cultivation material specified in subsection 104 (3) of this Act shall be provided with a document certifying its origin and species and, if required, its variety and quality.

<sup>1</sup>  
(3 ) The batch of seed and propagating material specified in § 104 subsection 3<sup>1</sup> of this Act shall be provided with a document certifying its origin and species as well as variety and quality.  
[ RT I 2009, 48, 321 - entry into force. 23.10.2009]

(4) A batch of seed that is not fully certified shall be provided with a document certifying field recognition. For the purposes of this Act, a seed not fully certified is a seed of a plant species subject to certification that has been field approved.

(5) The requirements for the label and accompanying documents of the batch of uncertified seed shall be established by the minister responsible for the field .

(6) In order to make the seed available more quickly, the primary distributor of the seed may market the seed, the certification of which has started, before receiving the document certifying the certification, if an analysis notice confirming the quality has been issued for the seed, which does not contain information on the germination of the seed. Such a batch of seed is provided with a separate distributor's label with the distributor's name, address and batch number. The distributor ensures at least minimum germination of the seed he distributes. After the certification of the seed is completed and the document proving the certification is received, the document proving the certification is forwarded to the buyer of the seed.

(7) A batch of cultivation material to be marketed in another Member State shall be supplied in accordance with Commission Regulation (EC) No. 1598/2002 establishing detailed implementing rules of Council Directive 1999/105/EC regarding the provision of mutual administrative assistance by authorities (OJ L 240, 07.09.2002, pp. 39–42), with appropriate information. The distributor of the cultivation material in another Member State forwards the necessary information to the Environment Agency, which forwards the relevant notification to the responsible authority.  
[ RT I 2009, 3, 15 - entry into force. 01.02.2009]

(8) The content of the notification to be forwarded to the relevant authority of the country of destination regarding cultivation material marketed in another member state and the procedure for its transmission shall be established by the minister responsible for the field .

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

(1) If, as a result of economic tests, the cultivation value of a variety included in the EU variety list of agricultural or vegetable crops is not sufficient compared to the cultivation value of another variety included in the EU variety list, or if the plant health characteristics of the plants of a variety listed in the EU variety list of agricultural or vegetable crops may endanger the plant health of plants of another variety or the environment, the person responsible for the field may the minister to prohibit the marketing of this variety in Estonia, informing the European Commission about it.

(2) The Ministry of Regional Affairs and Agriculture submits the application for restriction of marketing specified in subsection 1 of this section to the European Commission before the end of the third calendar year following the calendar year of the approval of the EU agricultural or vegetable crop variety list of the variety whose marketing is requested to be restricted.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced by the words "Ministry of Regional and Agricultural Affairs" in the corresponding case]

(3) If the production of a variety listed in the variety sheet of EU agricultural or vegetable crops may cause a direct threat to plant health, human health or the environment, the Agriculture and Food Board may impose the ban specified in subsection 1 of this section immediately after the application is submitted. The Ministry of Regional Affairs and Agriculture informs the European Commission about this.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced by the words "Ministry of Regional and Agricultural Affairs" in the corresponding case]

(4) If, due to its phenotypic or genetic characteristics, the marketed cultivation material has a harmful effect on forestry, the environment, genetic resources or biological diversity, the Ministry of Climate may request permission from the European Commission to prohibit the marketing of this cultivation material in the territory of the Republic of Estonia or part of it.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 6 of the Government of the Republic Act, the word "Ministry of the Environment" in the text replaced by the word "Ministry of Climate"]

## 1

### **§ 106 . Marketing of seed that does not meet minimum germination requirements**

(1) Certified seed category seed that does not meet the minimum germination requirements may be certified and marketed in accordance with Commission Regulation (EC) No. 217/2006, which stipulates the provisions of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/ EC and 2002/57/EC implementing regulations regarding the authorization of member states to temporarily allow the marketing of seed that does not meet the minimum germination requirements (OJ L 38, 09.02.2006, pages 17-18), in accordance with Article 2 paragraph 3 on the basis of the temporary authorization of the European Commission within the period specified therein.

(2) The Ministry of Regional Affairs and Agriculture is the contact point within the meaning of Article 2(1) of Commission Regulation (EC) No. 217/2006.

[ RT I, 30.06.2023, 1 - enters into force. 01.07.2023; On the basis of § 105.19 subsection 7 of the Government of the Republic Act, the word "Ministry of Rural Affairs" replaced by the words "Ministry of Regional and Agricultural Affairs" in the corresponding case]

(3) The owner, representative or keeper of the variety, who wishes to market certified seed category seed that does not meet the minimum germination requirements, submits an application to the contact point specified in subsection 2 of this section with the information specified in Article 3 of Commission Regulation (EC) No. 217/2006.

(4) The contact point forwards the request to the European Commission within five working days of receiving the request.

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

## 2

### **§ 106 . Distribution of seed and propagating material of the variety intended for conservation of genetic resources**

(1) Seed and seed potatoes of a variety intended for the preservation of genetic resources, with the exception of seed of a variety of vegetable culture intended for the preservation of genetic resources bred for cultivation under special conditions, may be marketed in permitted quantities only in the region of origin of that variety.

(2) The amount of grain, fodder, oil and fiber crop variety seed and beet seed intended for the preservation of genetic resources permitted for marketing during a calendar year may not exceed 0.5% of the amount of seed of the same plant species sown in the area of origin during the calendar year immediately preceding the year of marketing, or for sowing 100 hectares required amount, whichever is greater.

(3) In the case of such plant species as field pea, common wheat, common barley, corn, potato, rapeseed and sunflower, the amount of seed or seed potato of a variety intended for the preservation of genetic resources allowed for marketing during a calendar year may not exceed 0.3% of the amount sown in the area of origin during the calendar year immediately preceding the year of marketing of the amount of seed or seed potatoes of the same plant species or the amount needed to sow 100 hectares, whichever is greater.

(4) The amount of seed or seed potatoes allowed for marketing during the calendar year of the plant species provided for in subsections 2 and 3 of this section per plant species may not exceed 10% of the amount of seed or seed potatoes of the same plant species sown in the area of origin during the calendar year immediately preceding the year of marketing, or the amount required to sow 100 hectares, depending on this, whichever quantity is greater.

(5) During the calendar year, the amount of seed of a vegetable crop variety intended for the preservation of genetic resources, with the exception of a vegetable crop variety bred for cultivation under special conditions, may not exceed the amount of seed required for the production of vegetables on the hectares specified for that plant species.

(6) The quantities allowed for the marketing of seed and seed potatoes of the variety intended for the preservation of genetic resources per year shall be established by the minister responsible for the field on the basis of statistical data, based on the requirements set forth in subsections 2-5 of this section, including the seeding rate established per hectare of agricultural land.

(7) The seed of a variety of vegetable culture intended for the preservation of genetic resources bred for cultivation under special conditions may be marketed only in such a sales package, in which the weight of the seeds does not exceed the maximum net sales package weight established for this plant species.

(8) The maximum net mass per plant species of the sales package of the seed of a vegetable culture variety intended for the preservation of genetic resources bred for cultivation under special conditions shall be established by the minister responsible for the field .

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

## 3

### **§ 106 . Submission of data on the variety intended for conservation of genetic resources and determination of permitted quantities**

(1) In order to determine the planned production of the variety intended for the preservation of genetic resources and, if necessary, the quantity allowed to be marketed, the seed producer and the seed potato supplier shall submit to the Agriculture and Food Board by April 15 the data on the size of the sowing area planned for that year and the location of the field by plant species and varieties.

2

(2) If, according to the data specified in subsection 1 of this section, the limit values established on the basis of § 106 subsection 5 are likely to be exceeded, the Agriculture and Food Board shall, on the basis of the data specified in subsection 1 of this section, determine to the producer of the seed of the variety intended for the preservation of genetic resources and the supplier of seed potatoes the quantities allowed to be marketed for the species and by varieties. Quantities are determined proportionally between producers or suppliers of the variety intended for conservation of genetic resources, depending on the plant species and variety. The Board of Agriculture and Food makes a decision on the permitted quantities of seed and seed potatoes of the variety intended for the preservation of genetic resources to be marketed by May 1.

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

4

#### **§ 106 . Submitting data on the preservative mixture and determining the quantity of the preservative mixture allowed to be marketed**

(1) During the calendar year, the seed of the preservation mixture may be marketed in Estonia in total up to 5% of the amount of seed mixture of fodder crops marketed in Estonia during the first ten calendar months of the calendar year immediately preceding the year of marketing.

(2) Before the beginning of the production period, the producer of the preservation mixture shall notify the Agriculture and Food Board of the amount of seed of the preservation mixture for which he intends to apply for a marketing permit of the preservation mixture, the size and location of the planned collection site, and the planned marketing year.

(3) Before the start of the production period, the manufacturer of the preservation mixture for cultivated plant crops shall notify the Agriculture and Food Board of the size and location of the planned growing site in addition to the data specified in subsection 2 of this section.

(4) If, according to the data submitted on the basis of subsection 2 of this section, the producers plan to market the seed of the preservation mixture in a larger quantity than is allowed in accordance with subsection 1 of this section, the Agriculture and Food Board will reduce the amount of seed of the preservation mixture permitted to be distributed for each producer proportionally.

(5) The Agriculture and Food Board makes the decision specified in subsection 4 of this section before the beginning of the marketing year.

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

5

#### **§ 106 . Distribution of the preservation mixture**

(1) In order to market a preservative mixture, a person must have a permit for the distribution of a preservative mixture. Marketing permission for the preservative mixture is granted for a limited period of time and no longer than one calendar year.

(2) The preservation mixture may be marketed only in the area with which the relevant mixture is naturally associated (hereinafter *the origin region of the preservation mixture* ), and in the quantity determined by the permit for marketing the preservation mixture.

(3) The region of origin of the preservative mixture shall be determined by the Agriculture and Food Board in the case of granting a permit to market the preservative mixture.

(4) The manager of the protected area gives consent to the place of collection of the seed of the preservation mixture to be marketed, the seeds of the species included in the preservation mixture and the species composition of the mixture.

(5) The Agriculture and Food Board decides whether to grant or refuse a permit to market the storage mixture. The Board of Agriculture and Food refuses to grant permission to market the preservation mixture if:

- 1) the preservation mixture is not appropriate;
- 2) there is no consent of the manager of the protected area specified in subsection 4 of this section;
- 3) the amount of seed of the preservation mixture permitted to be marketed during the calendar year has been exhausted;

about

4) the person has not notified the Agriculture and Food Board in advance on the basis of subsection 4 (2) of § 106 of this Act the planned quantity of seed for marketing the storage mixture, the size and location of the collection site and the planned marketing year.

(6) The procedure for applying for and processing a permit for marketing a preservative mixture, including the content requirements of the application and the permit, shall be established by a regulation of the minister responsible for the field .

[ RT I, 09.11.2011, 3 - enters into force. 19.11.2011]

#### **§ 107. Keeping records**

(1) A person engaged in the marketing of seed and propagating or cultivating material shall keep accurate records of his activities. Records relating to the marketing of seed and propagation or cultivation material shall be kept for at least three years.

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

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

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(3) The person specified in subsection 4 of § 72 of this Act and the person who is engaged in the importation of fodder crop seed mixture or delivery from another member state to Estonia shall inform the Agriculture and Food Board of the amount of fodder crop

seed mixture marketed in Estonia during the first ten calendar months of the calendar year by December 1 of the same year.  
[ RT I, 09.11.2011, 3 - enters into force. 01.01.2012]

## **Chapter 7 IMPORT AND EXPORT**

### **§ 108. Import of seed and propagation and cultivation material**

The import of seed and propagating and cultivating material in the meaning of this law is the delivery of seed and propagating and cultivating material to Estonia for free circulation through the customs procedure from a country or territory located outside the customs territory of the European Union or from a country that is not a member of the European Economic Area (hereinafter *a non-EU country*).

### **§ 109. Countries outside the Union from which it is permitted to import certain seeds and propagating and cultivating material**

(1) In the case of seed of a plant species in the list of plant species to be certified, only the seed of the plant species specified in Council Decision 2003/17/EC on the equivalence of field recognition of seed crops carried out in third countries and the equivalence of seed grown in third countries (OJ L 8, 14.01.2003, pages 10–17) may be imported from the same non-Union country.

(2) In the case of seed that has not been fully certified, only the seed of the plant species specified in Council Decision 2003/17/EC from the same non-Union country may be imported, if the seed batch is equipped with a document certifying field recognition.

(3) Propagation material of fruit and berry crops may be imported only from a non-EU country designated by the European Commission, in which the propagating material was produced and the requirements for the production of propagating material meet the requirements of the European Union.

(4) Propagation material of vegetable culture may be imported only from a country outside the Union designated by the European Commission, in which the propagating material was produced and whose requirements for the production of propagating material meet the requirements set forth in the European Union.

(5) Cultivation material may be imported only from a non-EU country designated by the European Commission, in which the cultivation material was produced and whose requirements for the production of cultivation material meet the requirements in the European Union.

### **§ 110. Requirements for a person engaged in the import of seed and propagation and cultivation material**

(1) Before importing the cultivation material, the importer requests a permit to import a lot of the cultivation material of that plant species from the Environmental Board for the plant species to be certified.

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

(2) Before importing the seed of the plant species to be certified, the importer informs the Agricultural and Food Board about the batch of seed to be imported.

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

(3) The importer of seed and propagating or cultivating material shall keep accurate records of his activities and shall keep documents concerning the importation for at least three years.

### **§ 111. Requirements for imported seed and propagation and cultivation material**

(1) The imported batch of seed and propagating material of the plant species to be certified must meet the quality requirements established on the basis of this Act and must be provided with a document certifying certification or inspection. If the seed and propagating material of the mentioned plant species is included in the list established on the basis of Article 72(1)(d) of Regulation (EU) 2016/2031 of the European Parliament and of the Council, the imported lot will also be equipped with a phytosanitary certificate.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(2) The requirements for importing cultivation material shall be established by the minister responsible for the field .

### **§ 112. Import of cultivation material for the purpose of forest breeding, research and national experiments**

[ RT I, 30.06.2020, 7 - entered into force. 01.07.2020]

(1) Batches of cultivation material may be imported for forest breeding, research or national experiments on the basis of the permit specified in § 12 of the Plant Protection Act and the permit issued by the Environmental Board.

(2) The Environmental Board makes a decision to issue or refuse a permit to import a batch of cultivation material for forest breeding, research or national experiments within 15 working days of receiving the application and all documents necessary to make the decision.

(3) The Environmental Board shall refuse to issue the permit specified in subsection 2 of this section if:

- 1) the person or institution is not authorized to do so in accordance with this Act;
- 2) the amount of cultivation material does not correspond to the methodology of the experiments;
- 3) the person or institution has knowingly provided false information;
- 4) a person or institution has influenced the Environmental Board in an illegal manner.

(4) The requirements for importing a batch of cultivation material for forest breeding, research and national experiments, the requirements for the content of an application for an import permit, and the procedure for applying for a permit and processing the application shall be established by a regulation of the minister responsible for the field .

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

### **§ 113. Export of uncertified seed**

[Repealed - RT I, 09.11.2011, 3 - entered into force. 19.11.2011]

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7 . chapter  
**PROVIDING INFORMATION ON THE USE OF THE VARIETY**  
[Invalid - RT I, 30.06.2020, 7 - entry into force. 10.07.2020]

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**§ 113 . Submission of information on the use of the crop variety**  
[Repealed - RT I, 30.06.2020, 7 - entered into force. 10.07.2020]

**Chapter 8**  
**STATE AND ADMINISTRATIVE SUPERVISION**  
[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

**§ 114. State and administrative supervision**  
[ RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(1) State and administrative supervision over the fulfillment of the requirements of this Act and the legislation established on the basis thereof shall be carried out by:

- 1) in the case of seed and propagating material, the Agricultural and Food Board;
- 2) in the case of cultivation material, the Environmental Board;
- 3) in the case of importing seed and propagating and cultivating material, in accordance with Regulation (EU) No. 952/2013 of the European Parliament and of the Council establishing the Union Customs Code (OJ L 269, 10.10.2013, p. 1–101), the Tax and Customs Board.

[ RT I, 16.06.2017, 1 - enters into force. 01.07.2017]

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

**§ 115. Performing state supervision**  
[ RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(1) The law enforcement body may apply the special measures of state supervision provided for in §§ 30, 32, 49, 50, 52 and 53 of the Law Enforcement Act in order to carry out the state supervision provided for in this Act, on the basis and according to the procedure provided for in the Law Enforcement Act.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(2) If a law enforcement body has, during the exercise of state supervision, a reasonable suspicion that a batch of marketed or imported seed or propagating or cultivating material does not meet the requirements established for marketed or imported seed or propagating or cultivating material, it shall suspend the marketing or importation of such a lot until it has been taken until the results of the sample analysis are known.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) If, as a result of the analysis of a sample taken during state supervision, it turns out that the batch of marketed or imported seed or propagating or cultivating material does not meet the requirements established for the marketed or imported seed or propagating or cultivating material, the law enforcement body shall suspend the marketing or importation of such a lot until marketing or importation until the banning decision is made. The decision to prohibit marketing or importation is made within five working days of receiving the results of the sample analysis.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(4) If, during the exercise of state supervision, it is established as a result of a visual inspection that a batch of marketed or imported seed or propagating or cultivating material does not meet the requirements established for marketed or imported seed or propagating or cultivating material, but it is possible to bring it into compliance with the requirements, its marketing shall be suspended or importation until the relevant batch is brought into compliance. If it is not possible to bring the batch into compliance with the requirements or if it has not been done by the deadline, the law enforcement body makes a decision to prohibit the distribution or importation of the batch.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(5) The law enforcement body may take samples at the expense of the person during the inspection of movable property. If the inspected movable property cannot be used normally after the inspection, the person will not be compensated for the movable property or the cost of restoring the movable property to normal use.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

**§ 116. Official uniform**  
[ RT I, 13.03.2014, 4 - entry into force. 01.07.2014]

During the execution of state supervision, the official of the Agriculture and Food Board wears official clothes.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

**§ 117. State supervision of variety preservation**  
[ RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(1) State supervision over the preservation of the variety is carried out by the Agriculture and Food Board. State supervision of the preservation of the variety of agricultural and vegetable crops included in the variety sheet consists of checking the varietal authenticity of the variety and the authenticity of the ingredients of the variety on the basis of information and documents of the preserver of the variety regarding the preservation of the variety, as well as in laboratory experiments, follow-up or other field experiments with the seed or propagating material of the variety.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(2) The provisions governing the state supervision of the preservation of the variety of agricultural and vegetable crops included in the variety list shall apply to the state supervision of the preservation of the protected variety. State supervision of the preservation of a protected variety, with the exception of an agricultural and vegetable crop variety, is carried out by checking the information and documents regarding the preservation of the variety collected by the variety owner and comparing the characteristics of the plants grown from the seed or propagating material submitted by the variety owner with the characteristics described in the variety description.  
[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(3) If, as a result of state supervision, it turns out that the characteristics of plants grown from seed or propagating material submitted by the variety preserver do not meet the minimum requirements, the characteristics described in the variety description, and the characteristics of plants grown from a standard sample, the variety has not been preserved.  
[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(4) [Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(5) Requirements regarding the frequency and scope of follow-up inspections are established by the minister responsible for the field .

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### **§ 117 . National supervision of field recognition and seed sampling and analysis**

(1) State supervision over field recognition is carried out by the Agriculture and Food Board. In the course of state supervision, the conformity of the assessment given in the field recognition protocol of the field recognition operator with the actual situation of the seed field is checked at the rate and frequency established on the basis of § 117 (5) of this Act.

(2) If in the course of state supervision it is established that the assessment given in the field recognition protocol for the seed field does not correspond to the actual situation of the field, the field recognition has not been properly performed. In this case, the Agriculture and Food Board makes a new field recognition protocol for the seed field, which is used as a basis for the certification of the seed lot from this field.

(3) State supervision of seed sampling is carried out by the Agriculture and Food Board. In the course of state supervision, the sample taken from the seed lot submitted for certification by an entrepreneur holding a seed sampling license is compared with the control sample taken by the Agriculture and Food Board at the rate and frequency established on the basis of § 117 (5) of this Act.

(4) Subsection 3 of this section does not apply in case of taking a seed sample with an automatic sampling device.

(5) State supervision over the analysis of samples in the seed control laboratory is carried out by the Agriculture and Food Board. In the course of state supervision, the results of the analysis of the seed sample of the seed control laboratory are compared with the results of the analysis of the duplicate sample of the same batch of the seed sample of the accredited seed control laboratory according to the ISTA methods at the rate and frequency established on the basis of § 117 (5) of this Act.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

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## **8 . chapter SAMPLING AND NOTIFICATION**

**[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]**

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

[ RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(1) The Agricultural and Food Board and the Environmental Board have the right to take samples of seed and propagating and cultivating material at the expense of the producer or supplier, both during state supervision and during other procedures, to check compliance with the requirements of this Act and the legislation established on the basis thereof.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(2) The costs of analysis related to the determination of the presence of a plant pest on the propagating material taken during certification, with the exception of the analysis costs related to the determination of viral diseases of seed potatoes, shall be paid by the applicant for certification.

[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(3) [Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(4) [Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

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(4 ) [Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

(5) Regarding the analysis results, the laboratory issues an analysis protocol, which, in addition to the analysis results, also contains other information related to the analysis.

(6) If the person does not agree with the results of the seed analysis, he has the right to choose another accredited laboratory for a repeat analysis, where he has the repeat samples analyzed at his own expense.

(7) If a person wants the law enforcement body to be able to take into account the results of the analysis of the repeat sample specified in subsection 6 of this section, he submits an application to the law enforcement body to take a repeat sample.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

(8) The methods of taking samples of seed and seed potatoes shall be established by the minister responsible for the field .

### **§ 119. Sampling for participation in European Union comparative tests**

(1) Comparative tests of the European Union are organized to check the compliance of the seed and propagating and cultivating material with the requirements of the legislation of the European Union.

(2) The Agricultural and Food Board or the Environmental Board shall take the necessary amount of samples from the seed and propagating and cultivating material at the expense of the person for participation in comparative tests of the European Union.  
[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

#### **§ 120. Notification for follow-up inspection**

The person informs the Agricultural and Food Board about the batch of seeds delivered to Estonia from the European Union or a country recognized as equivalent for the purpose of propagation for follow-up sampling before the batch is distributed.  
[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

#### **§ 121. Injunction**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

#### **§ 122. Disputing the prescription, decision or action of the supervisory officer**

[Repealed - RT I, 25.03.2011, 1 - entered into force. 01.07.2014 (enforcement amended - RT I, 22.12.2013, 1)]

#### **§ 123. Notification**

In the case of seed and plant propagating material, the Agriculture and Food Board, and in the case of cultivation material, the Environment Board, informs the competent authorities of other member states, the European Commission and the CPVO in accordance with the legislation of the European Union.

[ RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

## **Chapter 9 RESPONSIBILITY**

#### **§ 124. Marketing of non-compliant seed, propagation or cultivation material**

[ RT I 2009, 48, 321 - entered into force. 23.10.2009]

(1) For marketing or importing non-compliant seed, propagating or cultivation material - a fine of up to 300 fine units is imposed.

[ RT I, 08.12.2020, 1 - enters into force. 01.01.2022]

(2) For the same act, if it has been committed by a legal entity, - shall be punished with a fine of up to 32,000 euros.

[ RT I, 08.12.2020, 1 - enters into force. 01.01.2022]

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

#### **§ 130. Procedure**

The non-judicial proceedings for the misdemeanors provided for in this chapter are the Agricultural and Food Board and the Environmental Board.

[ RT I, 08.12.2020, 1 - enters into force. 01.01.2021]

## **Chapter 10 IMPLEMENTATION PROVISIONS**

#### **§ 131. Variety register and variety sheet**

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

(1) The register of protected varieties established on the basis of § 8 (1) of the Plant Variety Protection Act, hereinafter referred to as the national register of varieties, shall be deemed to be the register of varieties specified in subsection 57 (1) of this Act.

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

(2) Varieties in the variety sheet compiled on the basis of the Seed and Plant Propagation Material Act shall be accepted by the Agricultural Board from the day of its entry into force, under the same conditions and for the same period of time, without a separate application and state fee.

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

#### **§ 132. Processing of plant variety protection applications submitted on the basis of the Plant Variety Protection Act and validity of plant variety protection**

(1) The processing of variety protection applications submitted on the basis of the Plant Variety Protection Act, the processing of which, including registration tests, is in progress at the time this Act enters into force, shall be continued in accordance with the requirements set forth in this Act without applying the requirement of novelty of the variety.

(2) The variety protection of a variety taken under protection on the basis of the Variety Protection Act and the protected variety certificate issued for it are valid during the period of the variety's protection until the end of the term specified in the decision to take the variety under protection.

(3) The Republic of Estonia is the owner of varieties bred at the expense of state funds and taken under protection before July 1, 1998.

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

(1) A permit issued on the basis of the Seed and Plant Propagation Material Act for the production or packaging of seed or plant propagating material, as well as a permit registered with the Agricultural Board issued by the owner or representative of the variety to the producer or packager of seed, propagating and cultivation material of a protected variety, and an import permit for the import of

cultivation material issued by the Forest Protection and Forest Renewal Center are valid until the end of the period of validity indicated in them.

(2) On the basis of the Seed and Plant Propagation Material Act, an activity permit for the production or packaging of cultivation material issued for an indefinite period is valid for five years from the entry into force of this Act. The validity period of the mentioned activity license may be extended in accordance with the procedure established in § 66 of this Act.

#### **§ 134. Countries outside the Union from which propagating material for fruit and berry culture may be imported**

(1) The non-union countries specified in § 109 subsection 3 of this Act, if it is provided for in the relevant decision of the European Commission, shall be designated by the Agriculture and Food Board until the deadline specified therein.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(2) The Agriculture and Food Board prepares a list of non-Union countries from which it is permitted to deliver fruit and berry culture propagating material of a certain plant species to Estonia, and publishes it on its website.

(3) The Agriculture and Food Board immediately informs the European Commission and other member states of the decisions made on the basis of the decision specified in subsection 1 of this section.  
[ RT I 2009, 34, 224 - entry into force. 01.01.2010]

#### **§ 135. Non-Union countries from which propagating material for vegetable culture can be imported**

(1) Council Directive 2008/72/EEC on the marketing of vegetable propagating and planting material, excluding seeds (OJ L 205, 01.08.2008, pages 28–39) on the basis of the decision of the European Commission specified in Article 16(2) and taking into account the requirements of the same directive for vegetable crops regarding propagating material, its production, supplier's obligations, varietal authenticity of propagating material, properties, plant health, growing medium, packaging, inspection procedure, labeling and closure, the Agriculture and Food Board shall determine, by the deadline specified in the above-mentioned decision of the European Commission, the non-Union country specified in subsection 4 of § 109 of this Act, in which the produced vegetable culture propagating material and the requirements for its production meet the requirements set forth in the European Union.  
[ RT I, 19.03.2019, 7 - enters into force. 01.04.2019]

(2) The Agriculture and Food Board prepares a list of non-Union countries from which it is permitted to deliver propagating material of a certain plant species to Estonia, and publishes it on its website.  
[ RT I 2009, 34, 224 - entry into force. 01.01.2010]

(3) The Agriculture and Food Board immediately informs the European Commission and other member states of the decisions made on the basis of the decision specified in subsection 1 of this section.  
[ RT I 2009, 34, 224 - entry into force. 01.01.2010]

#### **§ 136. Countries outside the Union from which cultivation material may be imported**

(1) The Environmental Board prepares a list of non-Union countries from which cultivation material of a certain plant species is allowed to be delivered to Estonia, and publishes it on its website.

(2) The Environment Agency immediately informs the European Commission and other member states of countries outside the Union from which cultivation material of a certain plant species is allowed to be delivered to Estonia.  
[ RT I 2009, 3, 15 - entry into force. 01.02.2009]

### **1**

#### **§ 136 . Implementation of provisions on fruit and berry crops**

(1) As of January 1, 2019, only well-known variety propagation material of the fruit and berry culture species taken from the variety sheet may be marketed.

(2) A variety of fruit and berry crops registered in the variety register published on the website of the Board of Agriculture until December 31, 2016 is considered a variety included in the fruit and berry variety list for the next 30 years from January 1, 2017.

(3) Propagation material of a well-known variety of registered fruit and berry culture that meets the quality requirements, which was produced from a mother and male plant grown before September 30, 2012, may be marketed until December 31, 2018.

(4) Propagation and planting material for fruit and berry culture produced in accordance with the requirements in force from October 1, 2012 to December 31, 2016, which is certified or meets the requirements established for controlled propagation and planting material, may be marketed until 2022. until December 31. In case of marketing of such propagating and planting material, the label and the supplier's document shall refer to Commission Implementing Directive 2014/98/EU, which implements Council Directive 2008/90/EC in relation to the special requirements applicable to the families and species of fruit trees referred to in Annex I, the special requirements applicable to suppliers and the official inspection with detailed regulations (OJ L 298, 16.10.2014, pp. 22–61), to Article 32.  
[ RT I, 19.03.2019, 7 - entered into force. 01.04.2019]

**§ 137. – § 141.** [Omitted from this text.]

#### **§ 142. Implementation provision**

(1) Legislation issued on the basis of the Plant Variety Protection Act and the Seed and Plant Propagation Material Act, which have been in force until now, shall be valid after the entry into force of this Act until they are repealed or until new legislation enters into force on the basis of this Act, but no longer than May 1, 2006.  
[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

(2) A seed packager entered in the plant health register before December 14, 2019 is considered to be an entrepreneur operating in the field of activity subject to notification as of December 14, 2019, and his notification obligation is considered fulfilled, taking into account the exception provided in subsection 3 of this section.  
[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]



(3) The company specified in subsection 2 of this section, for which not all the data provided for in subsection 2 of Article 66 of Regulation (EU) 2016/2031 of the European Parliament and of the Council have been entered in the plant health register, shall submit the missing data by November 1, 2020. If the data is not submitted on time, it is considered that the notification obligation of the entrepreneur has not been fulfilled.

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]

#### **§ 143. Entry into force of the law**

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

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

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Council Directive 66/401/EEC on the marketing of fodder seed (OJ L 125, 11.07.1966, pp. 2298–2308), amended by Directives 69/63/EEC (OJ L 48, 26.02.1969, pp. 8–12), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978, pp. 23–29), 78/386/EEC (OJ L 113, 25.04.1978, pp. 1–12), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, p. 1–4), 80/754/EEC (OJ L 207, 09.08.1980, p. 36), 81/126/EEC (OJ L 67, 12.03.1981, p. 36–37), 82/287/EEC (OJ L 131, 13.05.1982, pp. 24–26), 85/38/EEC (OJ L 16, 19.01.1985, pp. 41–42), 86/155/EEC (OJ L 118, 07.05.1986, pp. 23–27), 87/120/EEC (OJ L 49, 18.02.1987, pp. 39–43), 87/480/EEC (OJ L 273, 26.09.1987, p. 43–44), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 89/100/EEC (OJ L 38, 10.02.1989, p. 36), 92/19/EEC (OJ L 104, 22.04.1992, p. 61–62), 96/18/EC (OJ L 76, 26.03.1996, p. 21–22), 96/72/EC (OJ L 304, 27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, pp. 1–26), 98/96/EC (OJ L 25, 01.02.1999, pp. 27–33), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/55/EC (OJ L 114, 21.04.2004, p. 18), 2004/117/EC (OJ L 14, 18.01.2005, p. 18–33), 2007/72/EC (OJ L 329, 14.12.2007, pp. 37–39), 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70), 2012/37/EU (OJ L 325, 23.11.2012, p. 13), (EL) 2016/317 (OJ L 60, 05.03.2016, p. 72), (EL) 2016/2109 (OJ L 327, 02.12.2016, p. 59) and (EL) 2018/1028 (OJ L 184, 20.07.2018, page 7);

Council Directive 66/402/EEC on the marketing of cereal seed (OJ L 125, 11.07.1966, pp. 2309–2319), amended by Directives 69/60/EEC (OJ L 48, 26.02.1969, pp. 1–3), 71/162/EEC (OJ L 87, 17.04.1971, pp. 24–28), 72/274/EEC (OJ L 171, 29.07.1972, pp. 37–38), 72/418/EEC (OJ L 287, 26.12.1972, pp. 22–30), 73/438/EEC (OJ L 356, 27.12.1973, pp. 79–82), 75/444/EEC (OJ L 196, 26.07.1975, pp. 6–13), 78/55/EEC (OJ L 16, 20.01.1978, pp. 23–29), 78/387/EEC (OJ L 113, 25.04.1978, pp. 13–19), 78/692/EEC (OJ L 236, 26.08.1978, pp. 13–18), 78/1020/EEC (OJ L 350, 14.12.1978, p. 27), 79/641/EEC (OJ L 183, 19.07.1979, pp. 13–16), 79/692/EEC (OJ L 205, 13.08.1979, p. 1–4), 81/126/EEC (OJ L 67, 12.03.1981, pp. 36–37), 86/155/EEC (OJ L 118, 07.05.1986, p. 23–27), 86/320/EEC (OJ L 200, 23.07.1986, p. 38), 87/120/EEC (OJ L 49, 18.02.1987, p. 39–43), 88/332/EEC (OJ L 151, 17.06.1988, pp. 82–83), 88/380/EEC (OJ L 187, 16.07.1988, pp. 31–48), 88/506/EEC (OJ L 274, 06.10.1988, p. 44), 89/2/EEC (OJ L 5, 07.01.1989, p. 31), 90/623/EEC (OJ L 333, 30.11.1990, p. 65), 93/2/EEC (OJ L 54, 05.03.1993, p. 20), 95/6/EC (OJ L 67, 25.03.1995, pp. 30–32), 96/72/EC (OJ L 304, 27.11.1996, pp. 10–11), 98/95/EC (OJ L 25, 01.02.1999, p. 1–26), 98/96/EC (OJ L 25, 01.02.1999, p. 27–33), 99/08/EC (OJ L 50, 26.02.1999, p. 26), 1999/54/EC (OJ L 142, 05.06.1999, pp. 30–31), 2001/64/EC (OJ L 234, 01.09.2001, pp. 60–61), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33), 2006/55/EC (OJ L 159, 13.06.2006, p. 13), 2009/74/EC (OJ L 166, 27.06.2009, p. 40–70), 2012/1/EU (OJ L 4, 07.01.2012, p. 8), 2012/37/EU (OJ L 325, 23.11.2012, p. 13), (EU) 2015/1955 (OJ L 284, 30.10.2015, p. 142), (EU) 2016/317 (OJ L 60, 05.03.2016, p. 72) and (EU) 2018/1027 (OJ L 184, 20.07.2018, p. 4);

Commission Directive 93/49/EEC, which sets out the list of conditions to which ornamental plant propagating material and ornamental plants must comply in accordance with Council Directive 91/682/EEC (OJ L 250, 07.10.1993, pp. 9–18), amended by Directives 1999/67/EC (OJ L 164, 30.06.1999, p. 78) and 2018/484/EU, (OJ L 81, 23.03.2018, p. 10–12);

Commission Directive 93/61/EEC, which provides a list of conditions to which vegetable propagating and planting material, other than seeds, must comply in accordance with Council Directive 92/33/EEC (OJ L 250, 07.10.1993, pp. 19–28);

Commission Directive 93/62/EEC establishing implementing measures for the supervision and control of suppliers and companies in accordance with Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material, excluding seeds (OJ L 250, 07.10.1993, pp. 29–30);

Council Directive 98/56/EC on the marketing of propagating material for ornamental plants (OJ L 226, 13.08.1998, pp. 16–23), amended by Regulation (EC) No. 806/2003 (OJ L 122, 16.05.2003, pp. 1–35) and with Directive 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28);

Commission Directive 1999/66/EC establishing the requirements for labeling or other documents drawn up by the supplier in accordance with Council Directive 98/56/EC (OJ L 164, 30.06.1999, pp. 76–77);

Commission Directive 1999/68/EC laying down additional provisions on lists of ornamental plant varieties maintained by suppliers under Council Directive 98/56/EC (OJ L 172, 08.07.1999, pp. 42–43);

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

Council Directive 2002/53/EC on the common catalog of agricultural plant varieties (OJ L 193, 20.07.2002, pp. 1–11), amended by Regulation (EC) No. 1829/2003 (OJ L 268, 18.10.2003, pp. 1–23);

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

Council Directive 2002/55/EC on the marketing of vegetable seed (OJ L 193, 20.07.2002, pp. 33–59), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33), 2006/124/EC (OJ L 339, 06.12.2006, pp. 12–15) and 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70) and Regulation (EC) No. 1829/2003 (OJ L 268, 18.10.2003, pp. 1–23);

Council Directive 2002/56/EC on the marketing of seed potatoes (OJ L 193, 20.07.2002, pp. 60–73), amended by Directives 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2013/63/EU (OJ L 341, 18.12.2013, pp. 52–55), 2014/20/EU (OJ L 38, 07.02.2014, pp. 32–38) and 2014/21/EU (OJ L 38, 07.02.2014, pp. 39–41);

Council Directive 2002/57/EC on the marketing of oil and fiber plant seeds (OJ L 193, 20.07.2002, pp. 74–97), amended by Directives 2002/68/EC (OJ L 195, 24.07.2002, pp. 32–33), 2003/45/EC (OJ L 138, 05.06.2003, pp. 40–44), 2003/61/EC (OJ L 165, 03.07.2003, pp. 23–28), 2004/117/EC (OJ L 14, 18.01.2005, pp. 18–33) and 2009/74/EC (OJ L 166, 27.06.2009, pp. 40–70);

Commission Directive 2006/47/EC, which lays down special conditions regarding the occurrence of wind oats in cereal seed (OJ L 136, 24.05.2006, pp. 18–20);

Commission Directive 2008/62/EC, which provides for certain exceptions for the approval of public selection varieties and varieties of agricultural crops adapted to local and regional conditions and threatened by genetic erosion, and for the marketing of seeds and seed potatoes of these public selection varieties and varieties (OJ L 162, 21.06.2008, pp. 13–19);

Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, excluding seeds (OJ L 205, 01.08.2008, pp. 28–39);

Council Directive 2008/90/EC on propagating material and marketing of fruit trees intended for fruit production (OJ L 267, 08.10.2008, pp. 8–22);

Commission Directive 2009/145/EC providing for certain exemptions for the approval of public selection varieties and varieties of vegetables traditionally grown in certain localities and regions and at risk of genetic erosion and for vegetable varieties which have no real value in the industrial production of crops but which have been bred to grow under special conditions, and for marketing the seeds of the national selection varieties and varieties in question (OJ L 312, 27.11.2009, pp. 44–54);

Commission Directive 2010/60/EU establishing certain exceptions for the marketing of seed mixtures of fodder crops intended to preserve the natural environment (OJ L 228, 31.08.2010, pp. 10–14);

Commission Implementing Directive 2014/96/EU on labeling, sealing and packaging requirements for propagating material and fruit trees intended for fruit production falling within the scope of Directive 2008/90/EC (OJ L 298, 16.10.2014, pp. 12–15);

Commission Implementing Directive 2014/97/EU implementing Council Directive 2008/90/EC regarding the registration of suppliers and varieties and the common list of varieties (OJ L 298, 16.10.2014, pp. 16–21);

Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC with regard to the special requirements applicable to the families and species of fruit trees referred to in Annex I, the special requirements applicable to suppliers and the detailed rules on official inspections (OJ L 298, 16.10.2014, p. 22–61);

Commission Implementing Directive (EU) 2019/1813 amending Commission Implementing Directive 2014/96/EU on labeling, sealing and packaging requirements for propagating material and fruit trees intended for fruit production falling within the scope of Directive 2008/90/EC in relation to the color of the label for certified categories of propagating material and fruit trees, and in connection with the content of the supplier's document (OJ L 278, 30.10.2019, pp. 7–9).

[ RT I, 30.06.2020, 7 - enters into force. 01.07.2020]